

2026:PHHC:057511 DB



103 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D-504-DB-2004(O&M)
Reserved on 23.02.2026
Date of Pronouncement:16.04.2026

Pardeep Kumar ...Appellant

VS.

State of Punjab ...Respondent

Coram : Hon’ble Mr. Justice N.S.Shekhawat
Hon’ble Mr. Justice H.S.Grewal

Present : Ms. Gurneet Sagoo, Advocate (Amicus Curiae)
for the appellant.

Mr. Sartaj Singh Gill, Sr, DAG, Punjab.

Ms. Raksha Yadav, Advocate for
Mr. Jaganath Bhandari, Advocate (through VC)

N.S.Shekhawat J.

1. The appellant has preferred the present appeal against the impugned judgment of conviction and order of sentence dated 30.04.2004, passed by the Court of Sessions Judge, Ludhiana, whereby, the appellant was convicted for commission of offences punishable under Sections 302 and 201 of IPC and sentenced as under:-

Under Sections	Imprisonment	Fine	In default payment of fine
302 IPC	Rigorous Imprisonment for life	10,000/-	R.I for 06 months
201 IPC	R.I. for 02 years	2,000/-	03 months

2. The FIR (Ex.PF/2) in the present case was registered on the basis of the statement made by Raj Kumar S/o Mehar Chand and the same has been reproduced below:-

"I am resident of Mohalla Mai Zeena, Jagraon Pal @ Palli and Pardeep Kumar sons of Ram Chand Christian r/o Graveyard Atam Nagar, Jagraon are my nephews from brotherhood. It is not known as to where their father resides for the last 20-22 years. Their mother Usha Rani is not mentally fit, who resides alongwith her sister Zameela in C.M.C. Colony. Ludhiana. Both my nephews are residing in a room built in a graveyard. Pal & Palli for about 6/7 years has been working on the fruit shop at the Bus Stand with Raj Kumar @ Raja s/o Kuku Ram Arora r/o Mohalla Balocha. Mori Gate Jadraon. as a servant. Pardeep Kumar used to remain idle. Yesterday dated 6.8.89 at about 7.30 am, Pardeep Kumar came to me at my house and told that he received a telephone message that Pali had met with an accident near Ludhiana canal. One of his friend was accompanying him. On my asking, he told that it is not known in which hospital he is admitted. After telling me this he went away. I went along with my brother-in-law Surinder Singh s/o Mohinder Singh: r/o Behlolpur P.S. Machhiwara now r/o Mohalla Mai Zeena Jagraon firstly went & enquired at C.M.C. Hospital, Ludhiana but no patient of the name of Pali was found admitted there. Then myself and Surinder Singh enquired from Civil Hospital, Ludhiana & D.M.C. Ludhiana Hospital, Ludhiana but did not get any clue. Then we enquired in Jagraon. Mullanpur and Ludhiana Hospitals but to no avail. Then Pardeep Kumar met us. Thereafter on making enquires from P.S. Sarabha Nagar Ludhiana no information was received about any accident having occurred near Ludhiana canal. Pardeep Kumar has illicit relations with a woman, whom I had myself seen having seated on the carrier of the bicycle of Pardeep Kumar. I do not

know her name and address. Pal @ Palli used to forbid Pardeep Kumar from doing so. I had also many times prevented Pardeep Kumar from it. Due to this there used to be a quarrel among both the brothers. Thus, I have full suspicion that Pardeep Kumar has falsely narrated to me the version of accident and with an intent to kill, he has abducted Pal @ Palli. Action be taken against Pardeep Kumar. You have recorded my statement which has been heard and admitted correct.

Attested
Sd/- Surinder SI
I/C City Jagraon.
7.8.99.

Sd/-
Rai Kumar

Police proceedings:

Myself SI alongwith HC Charanjit Singh No. 193. C. Prem Singh 625. C. Sukhwinder Singh 741 and Balbir Singh SI. C-II Balwinder Singh 182. C. Harbhaian Singh 158. C. Gurmei Singh 13. C. Ravinder Singh 651 and PH Harnek Singh 29258, Force CIA Jagraon. in connection with Nakabandi & search of suspected person was present in Tehsil Chowk, Jagraon. Rai Kumar. aforesaid alongwith Surinder Singh s/o Mohinder Singh r/o Behlolpur P.S. Machhiwara now Mohalla Mai Zeena Jagraon got recorded his above statement with me, which on writing was read over to the maker of the statement, who on hearing and admitting it to be correct signed under neath his statement in English which has been attested by me. From this statement a cognizable offence u/s 364 IPC is made out. Therefore the statement in question, for registering a case against aforesaid Pardeep Kumar is being sent to P.S. Jagraon through C. Prem Singh No. 625. After registering the case its number be made known. DCR be informed and special reports be issued. Myself alongwith accompanying officials becoming busy in the investigation of the case.

*Ex. PF/1 Today, Tehsil Chowk
Jagraon
Time 8.45 P.M.*

*Sd/- Surinder Singh
SI,
I/C City Jagraon,
Dated 07.08.1999*

*Report No.17.19 at 9.05 p.m. , FIR dated 07.08.1999 under
Section 364 IPC has been registered at P.S.Jagraon*

*Sd/- Devinder
Singh HC
P.S. Jagraon
07.08.1999*

(Modified)

3. After registration of the FIR, on 09.08.1999, Surinder Singh, SI along with other police officials and Raj Kumar, son of Kuku Ram was present near the bridge of a minor canal and saw the appellant coming from the opposite side. He (appellant) was arrested by the police and his personal search was conducted. Later on, he was interrogated in the police custody on the same day by Surinder Singh, SI. He suffered a disclosure statement (Ex.PH) to the effect that he had kept the dead body of Pal @ Palli concealed in a pit near the room in the graveyard. Surinder Singh, SI moved an application to the Sub-Divisional Magistrate, Jagraon for deputing some Executive Magistrate in connection with recovery of dead body. Rajbir Singh, Naib Tehsildar was deputed for the said purpose and Gurdev Singh, Photographer was also sent with them. On the disclosure statement suffered by the appellant, the appellant got recovered the dead body of Pal @ Palli from the disclosed place, near the room in the graveyard. The dead body was recovered by digging earth by the appellant and was identified by Raj Kumar son of Kuku Ram and Raj Kumar son of Mehar Chand. The dead body was taken into possession by the police,

vide seizure memo Ex.PG/1, which was attested by Raj Kumar son of Kuku Ram, Raj Kumar son of Mehar Chand and Rajbir Singh, Naib Tehsildar. Surinder Singh, SI also prepared the inquest report of the dead body of Pal @ Palli. The dead body was sent for postmortem examination and Gurdev Singh, Photographer had taken the photographs at the place of recovery. On 10.08.1999, again the appellant suffered another disclosure statement in presence of Hem Raj and Charanjit Singh wherein he disclosed that he had kept concealed one blade of *Kahi* (Spade) and a broken wooden handle of *kahi* in another corner of the graveyard and got the same recovered before SI Surinder Singh. After the postmortem, it was opined that the cause of death in the present case was due to shock and haemorrhage, as a result of injuries, which were sufficient to cause death in ordinary course of nature.

4. After completion of necessary investigation, challan was presented against the appellant under Sections 302 and 201 of IPC. Since the case was triable by the Court of Sessions, the case was committed and the trial Court found that a *prima facie* case under Sections 302 and 201 IPC was made out against the present appellant and he was charge-sheeted, accordingly. However, the appellant did not plead guilty to the charge and claimed to be tried.

5. In support of the prosecution case, the prosecution examined 10 witnesses. Dr. H.S.Sandhu appeared as PW1, who had conducted the postmortem examination on the dead body of Pal @ Palli on 09.08.1999 and found that the body of the deceased was in putrefying condition, soiled swollen, hair were sparse, skin was peeling easily, foul smell was present, tongue protruded and was wearing banyan and pant and found the following injuries:-

“1. 5 cm x 3 cm sharp wound on the right side of neck just below the angle of right mandible. On dissection underling muscles and carotid vessel cut.

2. 6 cm × 3 cm sharp wound on the right side of face just lateral to right eye. Underling muscles cut.

3. 7 cm x 4 cm sharp wound on the left side on neck in its upper part. On dissection, the superficial carotid vessels cut along with muscles.

4. 5 cm x 4 cm sharp wound on the lower front region of neck. Wound was subcutaneous deep.

5. 5 cm x 3 cm sharp skin deep wound present at the right sterno clavicular region.

6. Nose depressed and lower part of nasal bone fractured.

Scalp in putrefying condition, skull healthy and brain liquefied. other viscera in putrefying condition. Organs of generation external and internal penis and scrotum were profusely swollen.

Death in his opinion was due to shock and haemorrhage as a result of injuries described which were sufficient to cause death in ordinary course of nature. Injuries were ante mortem in nature.

Probable time that elapsed between injuries and death immediately and between death and postmortem was three to four days. Ex.PA was the true carbon copy of postmortem examination report and Ex.PA/1 was the pictorial diagram showing the seats of injuries on the dead body of Pal alias Palli. The request of the police for conducting the postmortem examination Ex.PB.”

6. The prosecution further examined PW-2 Gurdev Singh, who had taken the photographs (Ex. P1 to Ex.P7) and the negatives were Ex. P8 to Ex.P14. The prosecution further examined PW-3, Constable Satwan Singh, who tendered his affidavit (Ex.PD), whereas, PW-4, HC Devinder Singh tendered his affidavit (Ex.PE) in evidence. The prosecution further examined PW-5, SI

Surinder Singh, who had conducted the initial investigation. He had arrested the appellant on 09.08.1999 and conducted his personal search. Still further, the appellant suffered a disclosure statement to the effect that he had kept concealed the dead body of his brother Pal @ Palli in a pit near the room in the graveyard and got the same recovered in the presence of the Executive Magistrate. Even Gurdev Singh, Photographer was also called at the spot and he had clicked the photographs and joined the process of investigation. Even Raj Kumar, complainant was also joined in the recovery proceedings. The dead body was got recovered by the appellant by digging the earth and was taken into possession by the police, vide separate seizure memo Ex.PG/1. The dead body was identified by Raj Kumar son of Kuku Ram and Raj Kumar son of Mehar Chand. He had also interrogated the appellant on 10.08.1999 and the appellant got recovered one blade of the *Kahi* (spade) and a broken wooden handle of that *kahi* (spade). The prosecution further examined PW-6 Rajbir Singh, Naib Tehsildar, who joined the investigation on 09.08.1999. The appellant led the police party to the cremation ground, Jagraon and he got recovered a dead body, which was buried there. Even, the police had taken the photographs of the deceased and some friends of the deceased had identified the dead body. He signed the recovery memo and also attested the same. ASI Charanjit Singh was examined as PW-7, who had taken the clothes removed from the dead body in a sealed parcel and the recovery memo was exhibited as (Ex.PH). Raj Kumar appeared as PW-8 and had supported the case of the prosecution completely. His testimony was duly corroborated by PW-9, Hem Raj. He stated that the appellant had a quarrel with the deceased in August 1999 and the deceased used counsel him not to quarrel with him. Even the deceased had advised the

appellant not to have any affair with a woman of loose character, with whom he had developed some relations. About 5 days prior to the murder of Pal @ Palli, he had gone to pacify the appellant and had counseled him not to quarrel with the deceased. On 05.08.1999, at about 10 p.m., the deceased came to him and told him that the appellant was threatening him and he should counsel him. On this, he went to the appellant and made him understand and counseled him. He was also part of the recovery proceedings, which was made by the police, in pursuance of two disclosure statements suffered by the appellant in the present case. The prosecution further examined PW-10 Raj Kumar alias Raja son of Kuku Ram, who stated that the deceased was working with him and was getting Rs.80/- per day. He had paid his wages to Pal @ Palli on 05.08.1999 and he left his home in the evening. However, on 06.08.1999, he did not come to the shop. He went to the residence of the deceased, but the same was found locked. While he was returning to his house, the appellant met him there and he told him that Pal @ Palli had met with an accident at Phillaur, when he was on his way to Chintpurni. He also told him that the dead body was taken to CMC Hospital, Ludhiana. Raj Kumar went to CMC Hospital, Ludhiana and no dead body was found there. Even Pal @ Palli, deceased used to tell him that he had a dispute with the complainant in the present case. On 07.08.1999, the police officials came to him and told him that they suspected that Pardeep had killed his brother, Pal @ Palli. On 09.08.1999, the appellant was interrogated in his presence and on his disclosure, the dead body was recovered by the police. Even the dead body was taken into possession by the police in his presence and the postmortem was got conducted and thereafter, the inquest report was also prepared.

7. After closure of the prosecution evidence, the entire incriminating evidence was put to him, however, he denied the same. He had taken the following defence in his statement under Section 313 Cr.P.C.

“PW Raj Kumar son of Mehar Chand is my maternal uncle. He is inimical towards me. He has deposed falsely. He implicated me in this false case. Surinder Singh is my massar (mother's sister's husband). He has not been examined by the prosecution. He was also inimical towards me. My maternal uncle Raj Kumar and my massar, Surinder Singh both are bad characters. They were in flesh trade. My mother is of unsound mind. My maternal uncle wanted her to live with him and to participate in the flesh trade. We refused that my mother would not live with him. I did not commit the murder of Pali. I did not bury his dead body nor I got it recovered as alleged by the police. I also did not get any kahi and its blade recovered. I am innocent.”

8. Learned counsel for the appellant has vehemently argued that the entire prosecution case was based on the testimonies of official witnesses only. Apart from official witnesses, the prosecution had examined PW-8 Raj Kumar, PW-9, Hem Raj and PW-10, Raj Kumar son of Mehar Chand, to prove the offence against the present appellant. However, all the 3 witnesses had closed association with the deceased and there was no independent corroboration of their testimonies. Apart from that, the appellant is a poor person and had no reason to kill his own real brother over a trivial issue. Thus, the impugned judgment is unsustainable and is liable to be set aside by this Court.

9. On the other hand, learned State counsel has submitted that in the present case, there was sufficient circumstantial evidence to prove the involvement of the appellant in the crime. In fact, Pal @ Palli, since deceased,

was staying at the same place with the present appellant and he used to object to the illicit relations of the deceased with a lady. Even in the evening of 05.08.1999, the deceased was lastly seen in the company of the appellant and thereafter, he was not seen by anyone. Even the six injuries were brutally caused by the appellant on the deceased and he had died due to the said injuries. Even the blade and wooden handle of the spade were also recovered from him, which were used by the appellant in causing the murder of the deceased. Thus, the impugned judgment is liable to be upheld by this Court.

10. We have heard learned counsel for the parties and perused the record carefully.

11. In the present case, the FIR was initially registered on the basis of the statement made by Raj Kumar, complainant PW-8, who is the maternal uncle of the deceased as well as the present appellant. He had categorically stated that there used to quarrel between the two brothers and he used to advise them to stay peacefully. At about 7:30 a.m. on 06.08.1999, appellant came to his house and informed that Pal @ Palli, since deceased, had met with an accident near a canal close to Ludhiana. They went to Ludhiana and made inquiries from the police stations, places near canal as well as the hospitals, but could not trace Pal @ Palli, since deceased. On 07.08.1999, the appellant told him that Pal @ Palli was taken to Moga side and was cremated there. They went to Civil Hospital, Moga and again inquired that the dead body of Pal @ Palli, deceased, was not found there also. Then they became suspicious against the appellant and found that he was misleading them. He further stated that the deceased used to object the appellant, as the appellant had developed illicit relations with a lady. Even the appellant used to remain idle and he used to fight with his

brother, Pal @ Palli. Even on 09.08.1999, the appellant had suffered a disclosure statement in his presence and got recovered, not only the dead body, but also the weapon of offence. His statement was duly corroborated by PW-9, Hem Raj, friend of Pal @ Palli. Even at 10.00 p.m. on 05.08.1999, he went to the appellant and had counseled him. He was also a witness to the recovery of weapon of offence from the appellant. Even PW-10, Raj Kumar remained associated with the entire process of investigation and had fully supported the case of the prosecution in the present case.

12. From the perusal of the evidence led by the prosecution, it is found that the case is based on circumstantial evidence. The law governing cases, resting on circumstantial evidence is no longer *res integra*. The Hon'ble Supreme Court, in the matter of **"Sharad Birdhichand Sharda versus State of Maharashtra, (1984) 4 SCC 116,** had enunciated the parameters for appreciation of circumstantial evidence and laid down as follows:-

"A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned "must or should" and not "may be" established. There is not only a grammatical but a legal distinction between "may be proved" and "must be or should be proved" as was held by this Court in [Shivaji Sahabrao Bobade & Anr. v. State of Maharashtra \[\(1973\) 2 SCC 793\]](#) where the following observations were made:[SCC para 19, p. 807] "Certainly, it is a primary principle that the accused must be and not merely may be guilty

before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."

(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say. they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency.

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."

13. Keeping in mind the afore-stated principles of law, we will now proceed to examine the evidence in the present case, to determine the charges against the present appellant.

14. In a case of circumstantial evidence, motive to commit crime is an important part, which needs to be established by the prosecution by leading the cogent and convincing evidence. In the present case, the prosecution had examined PW-8, Raj Kumar, who was the maternal uncle of the appellant as well as the deceased. He clearly stated that their father was missing for the last 20 - 22 years and their mother was not mentally sound. She was living with her sister, separately. The appellant and the deceased lived in a room, built inside the graveyard. Pal @ Palli, deceased used to sell fruits on a cart under the employment of Raj Kumar @ Raja, at Bus Stand, Jagraon. However, the

appellant did not do anything and he used to quarrel with the deceased. Apart from that, the appellant had also developed illicit relations with a lady and on that account also, the deceased used to quarrel with him. Still further, the prosecution examined Hem Raj, PW-9, who knew both the appellant as well as the deceased. The deceased was his friend. In August 1999, the appellant had a quarrel with the deceased as the appellant was having an affair with a woman of loose character and had developed relations with her. At 10.00 p.m. on 05.08.1999, the deceased went to him and told him that the appellant was threatening him and he should counsel the appellant. Then he went to the appellant and pacified him as well as the deceased and thereafter, both of them slept. After the night of 05.08.1999, the deceased was not seen by anyone.

15. From the statements of PW-8 Raj Kumar and PW-9 Hem Raj, it stood established that while Pal @ Palli, deceased used to sell the fruits, the appellant used to remain idle at the room and used to quarrel with the deceased. Even, he had developed illicit relations with a lady of loose character and used to roam with her. The deceased, being the brother of the appellant, used to object his activities and thus, there was a motive on the part of the appellant to commit the crime.

16. Another circumstance, which raises the presumption of guilt against the appellant is that the deceased was lastly seen in the company of the present appellant only. In the present case, admittedly, the appellant as well as the deceased used to live in a room, which was constructed in a graveyard. At about 10.00 p.m. on 05.08.1999, the deceased went to Hem Raj, PW-9 and told him that the appellant was threatening him and he should counsel the appellant.

Thereafter, Hem Raj, PW-9 went to their room and pacified the appellant as

well as the deceased and thereafter, both of them slept in the same room. In the morning of 06.08.1999, the appellant had declared that deceased had met with an accident and had expired due to the said accident. At about 7:30 a.m. on 06.08.1999, he went to the house of their maternal uncle Raj Kumar, PW-8 and told him that the deceased had met with an accident near the canal, which is close to Ludhiana. Thus, there was sufficient evidence to show that it was the appellant only, in whose company the deceased was last seen by the witnesses.

Apart from that, there was another clinching circumstance against the present appellant is recovery of the dead body at his instance. The prosecution examined SI Surinder Singh as PW5, who stated that he had arrested the accused on 09.08.1999 and was duly identified by Raj Kumar, son of Kuku Ram. He suffered a disclosure statement (Ex.PH) and stated that he had kept concealed the dead body of his brother, Pal @ Palli, in a pit near the room in the graveyard and offered to get the same recovered. Upon the disclosure statement, the appellant was taken in the graveyard and the dead body was recovered from the disclosed place in the presence of Rajbir Singh, Naib Tehsildar, Jagraon, who was deputed as Executive Magistrate for the said purpose. Even the photographs were taken by Gurdev Singh, Photographer, who proved the same. Moreover, again on 10.08.1999, the appellant suffered another disclosure statement (Ex.PJ) and got recovered the blade of spade and broken wooden handle of the spade, which was used for causing injuries to the deceased in the present case. The prosecution further examined PW-6, Rajbir Singh, Naib Tehsildar, who accompanied the police party on 09.08.1999 and the appellant had got recovered the dead body of the deceased in pursuance of his disclosure statement. Even the recovery memo of the dead body (Ex.PG/1) was signed by

him. The memo (Ex.PG/2) was also attested by him. Even the proceedings of recovery of dead body were also witnessed by PW-8, Raj Kumar as well as PW-9, Hem Raj. Thus, the circumstance of recovery of dead body at the instance of the present appellant, conclusively proves that he had committed the murder and kept the dead body at a place, which was exclusively within his knowledge.

17. Still further, the prosecution further examined Dr. H.S. Sandhu, Medical Officer, who had conducted the postmortem on the dead body of Pal @ Palli, deceased and found the following six injuries:-

“1. 5 cm x 3 cm sharp wound on the right side of neck just below the angle of right mandible. On dissection underling muscles and carotid vessel cut.

2. 6 cm × 3 cm sharp wound on the right side of face just lateral to right eye. Underling muscles cut.

3. 7 cm x 4 cm sharp wound on the left side on neck in its upper part. On dissection, the superficial carotid vessels cut along with muscles.

4. 5 cm x 4 cm sharp wound on the lower front region of neck. Wound was subcutaneous deep.

5. 5 cm x 3 cm sharp skin deep wound present at the right sterno clavicular region.

6. Nose depressed and lower part of nase bone fractured.”

18. Even the scalp was in putrefying condition, Skull was healthy and brain liquefied and other viscera was also in putrefying condition. Even hair were sparse and skin was peeling easily and foul smell was present. Even as per the doctor, the probable time between death and postmortem was 3 to 4 days and the said injuries could be caused with the spade. Thus, it is apparent

that the death had taken place on the night intervening 05/06.08.1999, when the deceased was seen in the company of the present appellant. Apart from that, even the investigation in detail was conducted by SI Surinder Singh and even during the course of investigation, the involvement of the present appellant stood established. Even the prosecution had examined Gurdev Singh, who was part of the police party, on 09.08.1999 and had proved 7 photographs (Ex. P1 to Ex.P7) and the negatives as Ex.P8 to Ex.P14. Still further, the prosecution had led sufficient evidence to prove the involvement of the present appellant and it was conclusively proved that it was the appellant only, who had committed the crime in the present case and was rightly convicted by the trial Court. Even otherwise, we have carefully perused the findings recorded by the trial Court and found no reason to set aside the same. The trial Court has correctly appreciated the evidence in the light of the settled canons of law and the impugned judgment of conviction and order of sentence dated 30.04.2004 are liable to be upheld.

19. As an upshot of the above discussion, we are of the considered opinion that the prosecution has been successful in establishing a complete and coherent chain of circumstances, so as to bring home the guilt of the appellant. Even the involvement of the present appellant was established by an unbroken chain of admissible evidence, pointing unequivocally towards the guilt of the appellant.

20. Thus, finding no merits in the present appeal, the same is ordered to be dismissed and the impugned judgment of conviction and order of sentence dated 30.04.2004 by the Court of Sessions Judge, Ludhiana are ordered to be upheld.

- 21. This Court records its appreciation for Ms. Gurneet Sagoo, Amicus Curiae, who has rendered able assistance to the Court on behalf of the appellant. Her fee is assessed Rs.20,000/-, which shall be paid by the Secretary, High Court Legal Services Committee, as per rules and practices.
- 22. All pending applications, if any, are also disposed off, accordingly.
- 23. Case property, if any, may be dealt with as per rules.
- 24. The trial Court record be sent back to the trial Court.

(N.S.SHEKHAWAT)
JUDGE

(H.S.GREWAL)
JUDGE

16.04.2026
hemlata

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No