



104/2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1) CRA-D-739-DB-2004(O&M)

Reserved on 03.02.2026

Date of Pronouncement:29.05.2026

Om Pati and another ...Appellants
vs.
State of Haryana ...Respondent

(1I) CRA-D-778-DB-2004(O&M)

Satbir ...Appellant
vs.
State of Haryana ...Respondent

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

Present : Mr. Bhuwan Vats, Advocate as Amicus Curiae (through VC) with
Ms. Chahat Vats, Advocate
for the appellants in CRA-D-739-DB-2004.

Mr. Ashwani Bhardwaj, Advocate
for the appellant in CRA-D-778-DB-2004.

Mr. Parmod Kumar, AAG, Haryana.

Mr. R.A.Sheoran, Advocate
for the complainant.

N.S.Shekhawat J.

1. This order shall dispose of above mentioned two appeals i.e. CRA-D-739-DB-2004 titled as Ompati and another Vs. State of Haryana and CRA-D-778-DB-2004 titled as Satbir Vs. State of Haryana, wherein the appellants in both the appeals have challenged the common impugned judgment of conviction dated 18.08.2004 and order of sentence dated 19.08.2004, passed by the Court of Sessions Judge, Bhiwani, whereby, the appellants were convicted



and sentenced to undergo imprisonment for life and to pay a fine of Rs.2000/- each under Section 302 read with Section 34 of the Indian Penal Code alongwith default stipulation.

2. The FIR (Ex.PE) in the present case was registered on the basis of the statement made by Manbir son of Hoshiyar Singh and the translation of the FIR (Ex.PE) has been reproduced below:-

“Stated that I am an agriculturist. We are two 2 brothers. At about 10 p.m. I and Madan Singh s/o Moji Ram Jat, resident of the village were coming back from the fields to the house. When we reached near the Balai meant for tieing the cattles, of Mahabir s/o Mihu Ram Jat. We heard a noise of 'Mar Diya Mar Diya'. Then both of us ran towards that side and saw that Risala s/o Mihu Ram and his wife Ompati has caught field Sombir, and the brother-in-law (Sala) of Risala namely Satbir R/o Charkhi was giving blows of Kulhari on the head of Sombir. On seeing us, all these three persons left Sombir on the cot and fled away. I and Madan Singh had taken care of Sombir s/o Hajari Jat R/O Kakroli Hukmi and found two/three injuries on the head of Sombir caused with Kulhari. A large quantity of blood had oozed. I left Sombir with Madan and went in the field to give information at their house. Sombir is my uncle (Chacha) in relation. On reaching their house at the field, I disclosed his brother Ajit Singh that Risala and his brother-in-law (Sala) etc. had caused injuries on Sombir and he was lying on a cot near the Balai of Mahabir. Ajit Singh, brother of Sombir, Bhupender and I came back and found that Sombir had died as a result of head



injuries. Cause of grudge is dispute on some matter as alleged. I and Ajit Singh had come to give information after managing a vehicle and after leaving Bhupender, Madan Singh etc. near the dead body. Action be taken Sd/- Manveer Singh attested Om Singh SI/SHO P.S. Badhra. Date 29.3.2002. At Police Station:- Above mentioned statement discloses an offence committed U/s 302/34 I.P.C. Therefore case No. 46 dated 29.3.2002 under the offence having been registered. I SI/SHO, Jagmal Singh ASI Ranjit Singh HC 92, Suresh Kumar HC 134 and driver Suresh Kumar C No.840, in government vehicle proceed towards the place of occurrence. Copy of Police file and complainant have been taken alongwith. Fourth copy of F.I.R. has been delivered to complainant. Free of cost. Special report is being sent to higher Officers and Illaqa Magistrate through C Karambir 231 Om Singh SI/SHO, P.S. Badhra has been directed to make enquiry.

Date and time when sent to Court through special constable Karambir 231.

*Sd/-
Om Singh, SI/SHO
No.141(H)”*

3. After registration of the FIR, Om Singh, SI went to the spot and conducted the inquest proceedings. He conducted the initial investigation and the dead body was sent to the hospital for postmortem examination. Satbir, appellant was arrested on 01.04.2002 and in pursuance of his disclosure statement, an axe was recovered from him. Ompati and Risala, appellants/accused were also arrested by the police. After necessary



investigation, the challan under Section 302 read with Section 34 IPC was presented before the Court of Area Magistrate by the police. However, the case was triable by the Court of sessions, consequently, the case was committed to the Court of Sessions, Bhiwani. After perusing the challan accompanying the documents, the appellants were ordered to be charge-sheeted for the commission of the offences punishable under Sections 302/34 of IPC, to which they pleaded not guilty and claimed trial.

4. In order to prove the charge against the appellants, the prosecution examined eight witnesses in the present case. The prosecution examined PW-1, Dr. Ishwar Singh, who conducted the postmortem examination on the dead body of Sombir, deceased on 29.03.2002, but the dead body was identified by Manvir and Ajit Singh and he found the following injuries on the person of the deceased:-

“1. There was a lacerated wound on the middle of right parietal lobe region 5 cms above the right pinna which was L shaped. Prongs were lying laterly. Size of the prongs were 3 cms and 3.5 cms. Which were 1 cm broad and bone deep. Wound was echymosed and clotted blood was present. On further dissection, underlying parietal bone was depressed and fractured. On further dissection, the right parietal lobe was ruptured and haematoma was present.

2. Lacerated wound on the middle of fore-head, which was echymosed and parallel. Size was 4 cms x 1 cm into bone deep. On further dissection, underlying bone was healthy and frontal lobe was healthy.

3. There was lacerated wound size 2 cm x 1 cm into bone deep. 1.5 cms below and right side of injury No.2 on the right eye brow,



extending to the lower side of middle of right thigh. On further dissection, nasal bone was fractured.

4. *There was lacerated wound size 5 cms x 1 cm bone deep, on posterior of right pinna in the middle, which was echymosed and extended posteriorly.*

Thorax: *Walls, ribs and cartilages were healthy. Pleura was healthy and pale. Larynx and trachea were healthy and pale. Right and left lungs were healthy and pale. Pericardium was healthy. Heart was healthy- left side was empty and right contained some blood. Blood vessels were healthy.*

Abdomen:-*Walls, peritoneum was healthy and pale, mouth, pharynx and esophagus were healthy and pale. Stomach was healthy, pale and contained some food particles. Small intestine was healthy and pale and contained some semi-digested food. Large intestine was healthy, pale and contained some fecal matter. Liver, spleen and kidneys were healthy and pale. Bladder was healthy and empty. Sexual organs were healthy and pale.”*

5. As per his opinion, the cause of death in the present case was injury to the vital organs i.e. brain and all the injuries were ante mortem in nature and sufficient to cause death in ordinary course of nature. The probable time between injuries and death was half to one hour and between death and postmortem was within 18 hours. As per him, the carbon copy of the postmortem report was exhibit PA and skiagram (Ex.PA/1) showing the seat of injuries. Inquest report (Ex.PC) was also initiated by him.

6. In his cross-examination, he stated that injuries No.2 and 4 were simple in nature and could be caused by fall on hard surface. Only on dissection of injury No.3, the nasal bone was found fractured and the possibility of minor pressure of injury on the nasal bone could not be ruled out. The possibility was



there that all the injuries might have been caused in a sitting position. He further admitted that in case, one or two persons hold the victim by hands, then injuries No. 2 and 3 were not possible. The possibility could not be ruled out that in case a person was holding the victim, he could also get injuries. The deceased might have remained alive for an hour.

7. The prosecution further examined PW-2, Jai Narain, Patwari, who prepared the scaled site plan (Ex.PD). Constable Karambir, PW3 had delivered the special report to the Illaqua Magistrate at 7:30 a.m. on 29.03.2002. The testimonies of PW-4, Constable Satbir Singh and PW-5, Head Constable Mahabir Singh were formal in nature. PW-6, Manvir Singh, complainant fully supported the case of the prosecution. He stated that he had lodged the FIR (Ex.PE) and also supported the contents of the FIR. The police accompanied him to the spot and the quilt stained with blood, sleepers, broken cup, one pouch and piece of quilt were taken into possession by the police, by converting the same into a sealed parcel, as per memo, (Ex.PJ). In his presence, Satbir was interrogated on 03.04.2002 and he got recovered an axe in pursuance of his disclosure statement (Ex.PK). The rough sketch of axe was prepared, which was converted into a sealed parcel and was taken into position as per Ex. PL.

8. In his cross examination, he admitted that Sombir, deceased was related to him in the third degree. Ajit Singh, PW was the real brother of Sombir. He further admitted that Risala, appellant was having a fracture in his knee. However, then he volunteered that at the time of occurrence, there was no fracture and he might have suffered the fracture about two and a half years ago. The prosecution further examined PW-7, Madan Singh, who also deposed on



similar lines and fully supported the testimony of PW-6, Manbir. He was also accompanying PW-6 Manvir Singh at the time of occurrence and was an eyewitness of the occurrence. In his cross-examination, he admitted that Sombir, since deceased was his cousin in relation. He further admitted that Risala, appellant was lame and his leg was fractured earlier to this occurrence. Ompati was earlier employed as a peon in the school and the school was situated on the northern-western side of the village. The prosecution further examined Inspector Om Singh, who had initially conducted the investigation at the spot and got the postmortem done from General Hospital, Charkhi Dadri. As per him, on 02.04.2002, Satbir, appellant suffered a disclosure statement (Ex.PT) and the same was signed by him. However, on 03.04.2002, he again made another disclosure statement (Ex.PK) regarding the axe, which was used in the commission of the offence. He got recovered an axe (Ex.P1) underneath the fire-woods in the village and it was taken into possession, vide recovery memo (Ex.PL). The axe was converted into a sealed parcel with the seal of JS and the recovery memo (Ex.PL) was attested by the witnesses. On 03.04.2002, the accused pointed out the place of occurrence and memo (Ex.PM) was prepared. After completion of investigation, the report under Section 173 Cr.P.C. was prepared by Balwant SHO and he identified his signatures. After examining eight witnesses, the prosecution closed the evidence.

9. After closure of the prosecution evidence, the entire incriminating evidence was put to the appellants in the shape of their statements under Section 313 Cr.P.C.. Risala, appellant had raised the following defence:-

“I am innocent. It was a blind murder. My leg was fractured earlier and its plaster was removed a few days ago and I



used to walk with the help of a lathi. My wife is working as a peon in the school which is on the other side of the village from the place of occurrence. She used to visit once in the night for keeping watch in the school. I had also gone with her in the school to have a round in the night. Our house is in the village. Thus, I and my wife were not present at all and away to school. I have been falsely implicated in this case due to party faction.”

10. Similarly, Ompati, appellant in the concluding part of her statement under Section 313 Cr.P.C. as under:-

“I am innocent. It was a blind murder. The leg of my husband co-accused Risala was fractured earlier and its plaster was removed a few days ago and he used to walk with the help of a lathi. I am working as a peon in the school which is on the other side of the village from the place of occurrence. I used to visit once in the night for keeping watch in the school. My co-accused husband Risal had also gone with me in the school to have a round in the night. Our house is in the village. Thus, I and my husband were not present at all and away to school. I have been falsely implicated in this case due to party faction. I had oral instructions from the school to have a round in the night time for watching the school.”

11. Similarly, Satbir, appellant also pleaded his innocence and stated that he had been falsely involved due to party faction in the village.

12. In their defence, the appellants examined DW-1, Dr. P.K. Goyal, Goyal Nursing and Maternity Home, Bhiwani. DW-1, Dr. P.K. Goyal had been stated that on 31.07.2001, he re-plastered Risala Singh for fractures both bones



of leg. Re-plaster was done for one month and Ex.D1 was the original slip issued by him, which was bearing his signature.

13. Learned counsel for the appellants vehemently argued that in the present case, the occurrence had taken place at about 10.00 p.m. on 28.03.2002, whereas, the FIR was lodged by Manvir Singh on the next morning at 5.00 a.m. on 29.03.2002. Even the distance between the place of occurrence and the Police Station was hardly 8 kms and the delay could not be explained by the prosecution in the present case. Learned counsel further submit that the prosecution case primarily rests on the testimony of PW-6, Manvir Singh and PW-7 Madan Singh. However, from the statements of both the witnesses, it is apparent that they were closely related to the deceased and it was unsafe to rely upon such witnesses. Moreover, from their testimonies, it was also apparent that both the alleged eye-witnesses were not present at the place of alleged occurrence. Learned counsel further submitted that even, admittedly, Risala had suffered a fracture on his leg and the said fact was admitted by both the star witnesses of the prosecution that he was not able to walk properly. Even Risala and Ompati were not present at the place of alleged occurrence and by assigning a false roles to them, they were falsely involved by the complainant in the present case. Even the version of the prosecution regarding involvement of Ompati and Risala was highly improbable and unbelievable. It is unimaginable that two persons would catch hold of the deceased and then, Satbir would cause injuries to the deceased. Thus, the impugned judgment of conviction and order of sentence passed by the trial Court are liable to be set aside by this Court.



14. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the appellants. Learned counsel submitted that immediately after the occurrence, the complainant and Madan Singh, PW6 and PW7 respectively, had informed the family of the deceased and they had reached at the place of occurrence. After this, a vehicle was arranged and the dead body of Sombir, deceased was also shifted to the hospital and the FIR was got registered at 5.00 am on 29.03.2002. Consequently, the delay already stood explained in the present case. Still further, learned counsel also referred to the testimonies of PW-6, Manvir and PW-7, Madan Siingh to contend that both the witnesses had withstood the test of cross examination and by relying on their testimonies, it is contended that the depositions were consistent and the trial Court had rightly relied upon the same.

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

16. In the present case, the prosecution was launched on the basis of the FIR (Ex.PE), which was registered on the basis of the statement made by Manvir Singh, PW6. After the occurrence, the dead body of Sombir was shifted to General Hospital, Charkhi Dadri, where PW-1, Dr. Ishwar Singh had conducted the postmortem examination on the dead body of Sombir at 10.30 a.m. and found four injuries on his person. He also proved the postmortem report of Sombir as Ex.PA and stated that the cause of death in the present case was due to injury on the vital organ i.e. brain and all the injuries were ante mortem in nature and sufficient to cause death in ordinary course of nature.



Even he stated that Ex.P-1 axe was the same, which was shown to him on 17.04.2002 and he had given his opinion Ex.PN/1 on police request (Ex.PN) the injuries on the person of the deceased could be caused by Ex.PI. He also identified the Kurta, Pyjama and underwear of the deceased, which were Ex. P-2 to Ex.P4. Apart from that, the investigation in the present case was proved by Inspector Om Singh, PW-8. He had arrested Satbir, appellant on 02.04.2002 and on 03.04.2002, Satbir, appellant again made a disclosure statement (Ex.PK) regarding the axe, which was used in the commission of the offence. In pursuance of his disclosure statement (Ex.PK), Satbir, appellant got an axe (Ex.P1), which was exclusively within his knowledge. The axe was converted into a sealed parcel and the recovery memo (Ex.PL) was attested by the witnesses. However, no recovery was effected from Ompati and Risala, both appellants. The axe recovered from Satbir was sent to FSL, Madhuban and as per FSL report (Ex.PH), the axe recovered from Satbir was found to be bloodstained.

17. In the present case, learned counsel for the appellants had raised an argument that the alleged occurrence had taken place at 10.00 p.m. on 28.03.2002 in the Village Kakroli Hukmi and the FIR was lodged by Manvir Singh at 5.00 a.m. on 29.03.2002. Even the distance between the place of occurrence and the police station was 8 kms and the delay could not be explained by the prosecution. However, we find no substance in the arguments raised by learned counsel for the appellants. In fact, after the occurrence, Manvir Singh, PW-6/eye-witness went to the house of the deceased to inform them about the incident. He, Ajit Singh and Bhupinder rushed to the spot and



found that Sombir had already died. Thereafter, Manvir accompanied by Ajit Singh went to the police station and lodged the FIR in the night itself by arranging some conveyance. Thereafter, the police also must have taken some time in reaching the place of occurrence and the deceased had already died. Consequently, the FIR was registered at about 5.00 am and it can never be said that the registration of FIR was delayed in the present case. Moreover, we also agree with the findings recorded by the trial Court that the delay in registration of the FIR, in each every case is not always fatal and the prosecution version cannot be discarded only on this ground alone, unless it is found that the case was got registered by the complainant after due deliberations. Thus, there was no delay in registration of the FIR in the present case and the FIR was got registered by the complainant with promptitude.

18. Still further, learned counsel for the appellants had assailed the testimonies of PW-6, Manvir Singh and PW-7, Madan Singh on the ground that they were not the eyewitnesses of the occurrence and were closely related to the deceased. In fact, PW-6, Manvir Singh and PW-7, Madan Singh belonged to the same village and their testimonies could not be rejected only on the ground of their relations with the deceased. No doubt, the testimonies of related witnesses have to be scrutinized carefully, but their relation with the deceased could be no ground for rejection of their testimonies. In the present case, both the witnesses had consistently deposed with regard to the occurrence and so far as the role of Satbir Singh, appellant is concerned. They had assigned specific role to Satbir Singh, appellant. Even Satbir, appellant made a disclosure statement (Ex.PK) regarding the concealment of the axe in the cotton wood and when the police



party went at the disclosed place with him, he got recovered the axe (Ex.P1) and as per the FSL report (Ex.PH), the axe was found to be bloodstained. However, so far as the role of Satbir, appellant in CRA-D-778-DB-2004 is concerned, PW-6, Manvir and PW-7, Madan Singh had consistently deposed that Satbir was armed with an axe and he had given repeated blows on the head and other vital parts of the body of Sombir in their presence. On hearing the cries of Sombir, they had immediately reached the spot and after putting the injured on the cot, he ran away. Even as per the testimony of PW-8, Inspector Om Singh, the axe (Ex.P1) was recovered from Satbir, appellant in pursuance of the disclosure statement (Ex.PK) made by him and as per the FSL report (Ex.PH), the axe was found to be bloodstained. Apart from that, it is also apparent from the testimony of PW1 Dr. Ishwanr Singh that the injuries on the person of Sombir, deceased were apparently caused with an axe and there was sufficient evidence on record to show that Satbir had committed the murder of Sombir and he was rightly convicted by the trial Court for commission of offence under Section 302 of IPC.

19. Learned counsel for the appellants have vehemently argued that in fact, Ompati and Risala, appellants in CRA-D-739-DB-2004 were not present at the place of alleged occurrence and had not participated in the alleged occurrence at all. Even PW-6, Manvir Singh and PW-7, Madan Singh, eye-witnesses had alleged that Ompati and Risala, appellants had caught hold of Sombir, deceased and thereafter, Satbir, appellant had given 3 / 4 blows with axe to Sombir, deceased. Further, it was impossible for them to catch hold of the deceased as they could also suffer injuries on their person and even Risala



had got his leg fractured. He and his wife were in a school, where Ompati was employed as a peon. We find sufficient force in the submission made by learned counsel for the appellants in this regard. In the present case, the only role assigned to these two appellants was that they had caught hold of the deceased, while injuries were caused with an axe by Satbir to Sombir. Even the medical evidence supports the ocular version in the present case and PW-1, Dr. Ishwar Singh admitted in his cross-examination that in case, one or two persons hold the victim/deceased by his hands, then injuries No.2 and 3 were not possible. Even, the possibility could not be ruled out that in case, persons were holding the victim, they could also get injuries. Even otherwise, from the testimony of PW1, Dr. Ishwar Singh, it was clear that the injuries were caused to the deceased, while he was in a sitting position or was in a lying position. Thus, in view of the medical evidence, there was no need to catch hold of the deceased by the appellants. Apart from that, it is also a matter of common knowledge that in case, one person is giving blows to the victim and is caught hold by other co-accused, they may also suffer injuries on their person. Apart from that, even PW-6, Manvir Singh also admitted that Risala, appellant was having a fracture in his knee. Even PW-7, Madan Singh eyewitness also admitted in his cross examination that Risala, appellant was lame and his leg was fractured earlier to the said crime. He also admitted that Ompati was earlier employed as a peon in a school and the school was situated on the other side of the village. Even Risala and Ompati clearly stated in the statement under 313 Cr.P.C. that the leg of Risala was fractured earlier and he used to walk with the help of lathi. Ompati was working as a peon in the school, which was



situated on the other side of the village. She and her husband, Risala had gone to the school to have a round in the school at night and they were not present at the place of occurrence. Even both the accused had examined DW-1, Dr. P.K. Goyal, who also stated that on 31.07.2001, he had re-plastered Risala for fractures of both bones of leg and it appears that Risala, appellant was having some serious injury on his leg. Even otherwise, except the role of catching hold of the victim/ deceased, no other overact had been attributed to Ompati and Risala, both appellants and it appears that they had been involved due to their close relation with Satbir, main accused. Even otherwise, no independent witness of the village was examined by the prosecution to support the prosecution case and no recovery was effected from Ompati and Risala. Therefore, by extending the benefit of doubt to Ompati and Risala, both appellants in CRA-D-739-DB-2004, are ordered to be acquitted by this Court.

20. As an upshot of the above discussion, CRA-D-739-DB-2004 titled as “Ompati and another Vs. State of Haryana” is allowed and both the appellants, namely, Ompati wife of Risala and Risala, son of Mihu Ram are ordered to be acquitted by extending them the benefit of doubt, whereas, CRA-D-778-DB-2004 titled as “Satbir Vs. State of Haryana” is ordered to be dismissed.

21. Pending application(s), if any, stand(s), disposed of, accordingly.

22. I record my appreciation for Mr. Bhuwan Vats, Amicus Curiae, who has rendered able assistance to the Court and fee of Amicus Curiae is assessed Rs.20,000/-, which shall be paid by the Secretary, High Court Legal Services Committee, as per rules and practices.



- 23. Case property, if any, be dealt with, and destroyed after the expiry of period of limitation for filing the appeals, in accordance with law.
- 24. The Trial Court record, if any, be sent back.

(N.S.SHEKHAWAT)
JUDGE

(H.S.GREWAL)
JUDGE

29.05.2026
hemlata

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