

2025:PHHC:126922



**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

308-1

CRA-287-DB-2005

RAJESH KUMAR AND ANOTHER

... Appellants

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

AND

308-2

CRA-390-DB-2005

Date of Decision: 10.09.2025

DEVI SINGH AND ANOTHER

... Appellants

VERSUS

STATE OF HARYANA

... Respondents

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.
HON'BLE MR. JUSTICE H.S. GREWAL.**

Present: Proceedings qua appellant No.1- Rajesh Kumar in
CRA-287-DB-2005 stand abated on 13.02.2025 and
qua appellant No.2- Mukesh Kumar in CRA-390-DB-
2005 stand abated on 19.02.2025.

Ms. Monika Jalota, Advocate (Amicus Curiae) for the
remaining appellants in both the appeals.

Mr. Rajat Gautam, Addl. A.G., Haryana.

H.S. GREWAL, J. (ORAL)

By virtue of this common order, we shall decide both the
abovementioned appeals since the same have arisen out of the same judgment.

2. Before proceeding further, it would be apt to mention that the
proceedings qua appellant No.1- Rajesh Kumar in CRA-287-DB-2005 already

stand abated vide order dated 13.02.2025 and qua appellant No.2- Mukesh Kumar in CRA-390-DB-2005 stand abated vide order dated 19.02.2025, since they have died during the pendency of the appeals. Hence, the surviving appellants are now Devi Singh and Chatro Devi only.

3. The appeals had been preferred by the appellants against the judgment of conviction dated 02.03.2005 and the order of sentence dated 05.03.2005 passed by the then Addl. Sessions Judge, Panipat in Sessions Case No.03 of 2003 titled as State Versus Rajesh Kumar and others arising out of FIR No.303 dated 05.07.2000 under Sections 302 and 323 read with Section 34 of IPC, 1860 registered at Police Station City Panipat, District Panipat, whereby the appellants have been convicted and sentenced as under:

Sr. No.	Name of accused/ Appellants	Under Sections	Sentence.
1.	Devi Singh, Chatro Devi, Rajesh Kumar and Mukesh Kumar	302 read with Section 34 of IPC, 1860	Imprisonment for life and to pay Fine of Rs.10,000/- each. In default, to further undergo RI for one year.
2.	Rajesh Kumar <i>(Note: Appeal stands abated qua this appellant, since he has died).</i>	323 of IPC, 1860 and Section 25(1B) of the Arms Act, 1959	RI for one year and to pay fine of Rs.1000/-. In default, to further undergo RI for three months. - do -

All sentences of appellant Rajesh Kumar were ordered to run concurrently. Further, out of total fine of Rs.40,000/- (imposed under Section 302 read with Section 34 of IPC), an amount of Rs.30,000/- was ordered to be paid to the LRs of deceased Surender Kumar as compensation.

4. The case of the prosecution is that on 05.07.2000 when the police party was present in jeep No.HR-06C-9731 driven by Constable Harnarain at Barsat turn, Panipat for patrolling/checking, a VT message was received regarding admission of injured Surinder Kumar and his consequent death, upon which, the I.O. obtained rikkas from police post, bus stand, Panipat and went to General Hospital, Panipat where Satish Kumar (brother of deceased Surinder Kumar) and other residents of the Mohalla met him and Satish Kumar made statement to him that on 04.07.2000 at about 9.30 PM, he and his younger brother Pardeep were conversing with each other in their house, when Sanjay son of his uncle Tulsi Dass came running and told that Raju son of Devi Singh and his family members were beating Surinder Kumar upon which he alongwith Pardeep Kumar and Sanjay rushed to the spot and saw that in front of the house of Raju, Devi Singh and Mukesh Kumar had caught hold of Surinder Kumar and Raju was giving kicks and fist blows to Surinder Kumar. In the meanwhile, Chatro Devi came with a knife in her hand and handed over the knife to Raju and exhorted him to kill Surinder Kumar, upon which Raju took the knife from his mother Chatro Devi and inflicted two blows in the back of Surinder Kumar who fell down on the ground. Pardeep Kumar and Sanjay started taking care of Surinder Kumar and he chased Raju, but Raju forcefully pushed him due to which he fell down on the ground and suffered injuries. Raju, Mukesh Kumar, Devi Singh and Chatro Devi fled away from the spot. They brought Surinder Kumar to General Hospital, Panipat where he died during treatment.

3. On the basis of abovesaid statement, an FIR No.303 dated 05.07.2000 was registered. The police investigated the case. Raghbir Singh Inspector/SHO

conducted the investigation and completed all investigational procedures and formalities in accordance with law. Upon completion of investigation, challan was prepared and presented before the Court.

4. Charges under sections 302 read with section 34 and 323 of the Indian Penal Code, 1860 were framed against all the accused and charge under Section 25 of the Arms Act, 1959 was framed against accused Rajesh Kumar, to which the accused pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution examined PW1 Dhoop Singh S.I., PW2 Satish Kumar, PW3 Rajesh Kumar Constable, PW4 Dr. Arun Sehgal, Medical Officer, General Hospital, Panipat, PW5 Dr. S.S. Kalra, District Training Officer, Office of Civil Surgeon, Panipat, PW6 Sanjay Kumar, PW7 Constable Rajinder Kumar, PW8 Raghbir Singh retired Inspector and PW9 Sumer Chand and produced documents ruka Ex.PA, FIR Ex.PA/1, endorsements on ruka Ex.PA/2 and Ex.PA/3, affidavit of head constable Jasmer Singh Ex.PB, affidavit of head constable Naresh Kumar Ex.PC, scaled site plan Ex.PD, MLR of Surinder Kumar Ex.PE, medical rukas Ex.PE/1 and Ex.PE/2, MLR of Satish Kumar Ex.PF, post mortem report of Surinder Kumar Ex.PG, application for conducting post mortem Ex.PG/1, inquest report Ex.PG/2, recovery memo of blood stained earth Ex.PH, rough site plan Ex.PI, recovery memos of parcels handed over by the doctor Ex.PJ and Ex.PK, disclosure statement of accused Rajesh Kumar alias Raju Ex. PL, rough sketch of the knife Ex.PM, recovery memo of the knife Ex PN, FSL report Ex.PS and copy of statement of Sumer Singh mark PA and knife Ex.P1, banian Ex.P2, photographs positives Ex.P3 to Ex.P8, and negatives Ex.P9 to Ex.P11 and plastic container containing blood stained earth Ex.P12.

6. Statements of the accused under section 313 of the Code of Criminal Procedure, 1973 were recorded. In their statements under section 313 of the Code of Criminal Procedure, 1973, the accused have denied commission of alleged offences and have pleaded false implication. However, the accused did not produce any defence evidence.

7. The alleged eyewitnesses in the present case are Satish Kumar, Sanjay Kumar and Pradeep Kumar. However, Pradeep Kumar was given up as being unnecessary. Satish Kumar has appeared in the witness box and reiterated the case of prosecution. He stated that Sanjay Kumar had informed him that Raju and his family members were beating Surinder Kumar, upon which he alongwith Pradeep immediately rushed to the spot and saw that Devi Singh and Mukesh Kumar had caught hold of Surinder Kumar and Raju was giving fist and kick blows to him. Thereafter, Chatro Devi came to the spot carrying a knife in her hand and exhorted Raju to kill Surinder Kumar. Raju took the knife and inflicted two blows of knife on the back of Surinder Kumar, due to which he fell down. Thereafter, Sanjay and Pradeep checked upon the injured and he (Satish Kumar) tried to apprehend Raju but he could not do so as he was pushed by Raju on the ground, due to which he also received injuries. Thereafter, Surinder Kumar was taken to General Hospital, where he succumbed to the injuries during his treatment. The motive behind the incident was stated that Raju and his family had been indulged in the business of selling smack and illicit liquor and Surinder Kumar alongwith other residents in the vicinity used to raise their voices against them. On this account, the appellants held a grudge against Surinder Kumar and other residents of the locality.

8. PW6 Sanjay Kumar has also deposed on the lines of prosecution case and reiterated the statement made by Satish Kumar while fully corroborating the case of prosecution.

9 PW8 Raghbir Singh, Inspector/SHO, who has been Investigating Officer of the case, has deposed qua the arrest of the appellants, who were produced before the police by Raj Kumar. Appellant- accused Rajesh Kumar was interrogated and his disclosure statement Ex.PL was recorded. In pursuance of his disclosure statement, Rajesh Kumar got recovered one knife from the bricks which were lying in the Kabul Bagh, Panipat. Rough sketch Ex.PM of the knife was prepared and the knife was taken into possession vide memo Ex.PN.

10. PW4 Dr. Arun Sehgal, Medical Officer, General Hospital, Panipat examined Surinder Kumar (since deceased) on 04.07.2000 and found the following injuries on his person:

1. An incised wound 2.5 cm x 0.5 cm on the back of chest in the lower part on the right side. It was 2 cm from the midline and was horizontally placed. Fresh bleeding was present. X-ray and surgeon's opinion were advised.
2. An incised wound 2 cm x 0.5 cm on the back of the right side. It was 4.5 cm below injury no.1. Fresh bleeding was present. X-ray and surgeon's opinion were advised.

3. A linear red abrasion on the antero lateral aspect of right upper arm near shoulder. It was 7 cm long.
4. A linear red abrasion 4 cm on the right side in upper part.

On the same day, he also examined Satish Kumar and observed the following injuries:

1. A lacerated wound 0.7 cm x 0.5 cm on the left parietal region of scalp, clotted blood was present.
2. A lacerated wound 0.5 cm x 0.5 cm, 3 cm behind and 2 cm above injury No.1. Clotted blood was present.

11. PW5 Doctor S.S. Kalra had conducted the postmortem examination on 05.07.2000 and he had observed the following injuries: -

1. Linear dark redded abrasion 7 cm x 0.2 cm on the outer side of upper part of right arm.
2. A linear reddish abrasion 4 cm on front of right side of neck.
3. Stitched wound 2.48 cm in length almost transverse in the middle of back in its midline, 14 inches below the 7 cervical vertebra slightly on the right of the midline. On cut section haematoma subcutaneous was present. On further probing the injury was communicating with the peritoneum cavity.
4. Stitched wound 2.5 cm in length, transverse on the right side of the back of the chest, 4 cm above and lateral to injury No.1. On cut section injury was also communicating to the peritoneum cavity. On further exploration of injury No.4,

haemo peritoneum was present. Liver on its right outer boarder and based on the right side was pierced.

He also observed that left side of the heart was empty. Heamo peritoneum was present. Rest of the organs were healthy through pallor. The cause of death in the case was due to shock and haemorrhage as a result of injury to vital organ i.e. liver. All the injuries were antemortem in nature.

12. The FSL report Ex.PS indicates that knife, earth, pant, underwear and vest were stained with human blood.

13. Learned counsel (Amicus Curiae) for the appellants that the impugned judgment is based on surmises and conjectures and the prosecution has not been able to bring home the guilt of the appellants. The prosecution story is highly improbable and suffers from serious infirmities. She further submits that no corroborative evidence has been led by the prosecution to connect the appellants with the alleged offence. She further submits that the trial Court has missed out certain material facts while passing the impugned judgment and as such, it cannot be said that the impugned judgment is based on correct appreciation of evidence led and material produced on record. She further submits that the prosecution has not led any evidence qua the alleged illegal business of appellants regarding selling of smack and illicit liquor and the consequent enmity with the local residents. Not even a single witness from the locality has been examined to prove this fact. Infact, the appellants are very poor persons and have been falsely implicated in the present case. The case of the prosecution suffered from severe discrepancies and lacunae, which caused a serious dent in its case. Hence, the

impugned judgment of conviction dated 02.03.2005 and order of sentence dated 05.03.2005 are liable to be set aside and the appellants are liable to be acquitted of the charges framed against them. She thus prayed accordingly.

14. On the other hand, learned State Counsel vehemently opposed the arguments raised by learned counsel for the appellants by referring to the impugned judgment and submitting that the same is well reasoned, justified and based on correct appreciation of evidence. He further submits that the entire link evidence has been duly proved on record and the motive of murder has also been established on record. All the material witnesses and the medical evidence have been brought on record which duly prove the guilt of the appellants. Hence, it cannot be said that there is any infirmity or illegality in the impugned judgment. He thus prays for dismissal of the appeals.

15. Learned counsel for the appellants argued that there is delay in the registration of FIR as it has been registered on 05.07.2000 at 2:15 AM and this delay is unexplained. However, it has been argued by the other side that earnest efforts were made to save the deceased, which resulted in the delay in registration of the FIR, which is duly explained. Moreover, on account of the eyewitnesses' statement as well as recoveries, there is no ambiguity in the case. The prosecution has proved its case beyond reasonable doubt. On the ocular account, the role of appellant Chatro Devi and Devi Singh cannot be refuted. Devi Singh had secured the deceased while Chatro Devi had handed over the knife to Raju and instigated him to stab the deceased Surinder Kumar. In this way, all the appellants shared common intention to cause death of Surinder Kumar-deceased and as such, all the appellants in furtherance of their common intention caused death of deceased-

Surinder Kumar. Nothing material could be brought on record, which could compel this Bench to disbelieve the version of prosecution. No illegality or perversity has been pointed out by the counsel for the appellants in the impugned judgment. The entire chain of evidence is well knitted and proved on record, which duly substantiated and corroborated with the medical evidence. Weapon of offence has also been produced and proved on record, which shows that the case of the prosecution is well proved beyond shadow of all reasonable doubts.

16. Therefore, we found that there is no infirmity in the judgment of conviction dated 02.03.2005 and order of sentence dated 05.03.2005 passed by then Addl. Sessions Judge, Panipat and the same is hereby upheld. Accordingly, both the appeals in hand are dismissed.

17. The Chief Judicial Magistrate, Panipat is directed to take necessary steps to ensure that the appellants in both appeals are taken into custody and made to undergo the remaining sentence in accordance with law.

18. All other misc. application(s), if any, also stand(s) disposed of accordingly.

(MANJARI NEHRU KAUL)
JUDGE

(H.S. GREWAL)
JUDGE

SEPT. 10, 2025.

Rajender

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No