



CRA-D-872-DB-2004 (O&M)
and other connected case

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

(1) **CRA-D-872-DB-2004 (O&M)**

Om Pal and others

... Appellants

Versus

State of Haryana

... Respondent

(2)

CRA-D-209-DBA-2005 (O&M)

State of Haryana

... Appellant

Versus

Surinder and another

... Respondents

Date of decision : 12.08.2025

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

Present:- Mr. Amit Rana, Advocate (*Amicus Curiae*)
for appellant No.3-Jawara @ Sukhbir in CRA-D-872-DB-2004.

Proceedings qua appellants No.1 & 2-Om Pal and Kalu Ram
have already stand abated vide order dated 06.08.2025.

Mr. Karan Sharma, DAG, Haryana.

H.S. Grewal, J.

1. This order shall dispose of CRA-D-872-DB-2004 and CRA-D-209-DBA-2005 as these are arising out of identical FIR as well as the judgment



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of conviction and order of sentence. For the sake of brevity, the facts are being taken from CRA-D-872-DB-2004.

2. CRA-D-872-DB-2004 has been preferred by the appellants against the judgment of conviction dated 11.10.2004 and order of sentence dated 13.10.2004 passed by the learned Additional Sessions Judge, Panipat in case F.I.R No.206 dated 01.07.2000, registered at Police Station Samalkha, whereby they had been convicted and sentenced to undergo imprisonment along with fine as under:-

Name of the accused/ appellant	Section(s)	Sentenced to undergo	Fine (each)	In default of payment of fine (each)
Om Pal, Kalu Ram and Jawara @ Sukhbir	302/34 IPC	Life imprisonment	Rs.5,000/-	01 year RI
	120-B IPC	02 years RI	Rs.1,000/-	06 months RI
	It was ordered that both the sentences shall run concurrently.			

3. CRA-D-209-DBA-2005 has been preferred by the State against the aforesaid judgment dated 11.10.2004 whereby Surinder @ Pappu and Rajesh had been given the benefit of doubt and were acquitted of the charges levelled against them.

4. The prosecution case is based upon the complaint filed by Amrik Singh, who had submitted that he, Baljit Singh and Balbir Singh are three brothers and are agriculturists. About one year prior to the alleged occurrence, they had purchased eight killas of land from Ved Parkash r/o Ladsoli, which was situated within the revenue estate of village Raksera. Land of Dharam Pal Saini was abutting that land. The appellants-Om Pal, Kalu and Jawara used to

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cultivate that land of Dharam Pal. About 5-6 days prior to the occurrence, Makhan Singh (father of the complainant-Amrik Singh), asked Om Pal to straighten the boundary wall of the killas because he had encroached some land belonging to him. Om Pal replied that they (he and his brothers) were in possession of their land and they would plant saplings of paddy and they had not to get any demarcation. Makhan Singh wanted to get demarcation of the land from Patwari prior to planting Paddy saplings.

5. On 01.07.2000, family members of Om Pal, Kalu Ram and Jawara came to the fields to plant the paddy saplings and started sowing the same. At about 04.00 p.m. the complainant-Amrik Singh, his father Makhan Singh and his uncle Surat Singh were also present in their field. Amrik Singh and his uncle were draining out the rainy water from their field. Makhan Singh went near the boundary of his field to restrain the family members of Kalu Ram from sowing the paddy saplings. Meanwhile, accused Kalu Ram, Jawara, Om Pal, Pappu alias Surinder and Rajesh, who were sitting in the sugarcane field of Chatra, came out with weapons in their hands. Accused Kalu and Pappu were armed with *lathi(s)*, Jawara and Pappu @ Surinder were armed with *gandasi* while Om Pal was armed with a *kassi*. Accused persons had raised a *lalkara* that they would give him (Makhan Singh) demarcation on that day and had surrounded Makhan Singh. Amrik Singh and Surat Singh rushed towards Makhan Singh to help him. However, accused Jawara gave a *gandasi* blow on the left ear of Makhan Singh, Kalu gave a *lathi* blow which hit on left arm of Makhan Singh, Rajesh gave a *lathi* blow which hit left foot of Makhan Singh. Makhan Singh fell down and accused Om Pal gave 2-3 *kassi* blows on his head

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and Pappu gave a *gandasi* blow on his head. Amrik Singh and Surat Singh raised an alarm and several persons came from the fields while all the accused persons ran alongwith their weapons towards Yamuna.

6. When Amrik Singh and Surat Singh rushed towards Makhan Singh, they found that he had already succumbed to his injuries. Amrik Singh left his uncle Surat Singh and 5-6 other persons with the dead body and took Salwant Singh Ex-Sarpanch with him and proceeded towards Police Station for reporting the matter. SI/SHO Ram Kishan (PW6) was on patrol duty alongwith other police officials and was present at Hathwala turning G.T.Road, when Amrik Singh met him and made a statement Ex.PA. He made an endorsement Ex.PA/1 over the same and sent it to the police station on the basis of which formal FIR (Ex.PA/2) was recorded by Assistant Sub Inspector Tale Ram. Thereafter, SI Ram Kishan went to the spot alongwith photographer and Amrik Singh. The photographs of the place of occurrence were taken. Inspector Om Parkash (PW8) reached the spot and he took over the investigation from SI Ram Kishan. Inquest proceedings Ex.PF were conducted on the dead body and the dead body was sent for post mortem examination vide application Ex.PF/1. The statements of witnesses were recorded and a rough site plan Ex.PG was prepared. Blood stained earth was lifted from the spot and the same was made into a parcel and taken into possession vide memo Ex.PH.

7. On 06.07.2000, accused/appellant(s) Om Pal, Jawara and Kalu were arrested. On 09.07.2000, they all were interrogated in the presence of PWs Mohinder Singh and Karam Singh. Accused/appellant Om Pal made a disclosure statement Ex.PK with regard to concealment of kassi in his

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residential house in a kotha of chaff and offered to get the same recovered. Thereafter, accused/appellant Jawara made a disclosure statement Ex.PL that he had kept concealed a *gandasi* in his residential house in a kotha of chaff and offered to get the same recovered. Then accused/appellant Kalu made a disclosure statement Ex.PM that he had kept a lathi in a kotha of chaff in his residential house and offered to get the same recovered. Thereafter, accused persons led the police party to their respective houses in the area of Dera Simbalgarh and the recovery of alleged kassi (Ex.PK/1), *gandasi* (Ex.PL/1) and lathi (Ex.PM/1) was effected from them. All the weapons were taken into police possession vide memo Ex.PK/2, Ex. PL/2 & Ex.PM/2 respectively. Rough site plans Ex.PK/3, Ex.PL/3 and Ex.PM/3 of the places of recoveries were also prepared. Statements of witnesses were recorded. After completion of investigation, a challan was presented against the appellants-Om Pal, Raju and Jawara.

8. On 21.11.2000, other co-accused, namely, Surinder alias Pappu and Rajesh were arrested for commission of an offence punishable under Section 120-B IPC and a separate challan was prepared and presented against them on 23.11.2000.

9. Both the challans were consolidated vide order dated 26.03.2001 passed by the then learned Additional Sessions Judge, Panipat and charges under Sections 120-B, 148, 302 read with Section 149 IPC were framed against the accused persons, to which they pleaded not guilty and claimed trial.

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10. Learned counsel for the appellants submits that the trial Court had erred in convicting the appellants as there were material contradictions in the prosecution versions and the alleged motive attributed to the appellants had not been established. The appellants have been falsely implicated due to long-standing land disputes between the complainant party and Dharam Pal (the owner of the land being cultivated by the appellants). The complainant party wanted to purchase that land and, in fact, after the appellants were arrested, the land was purchased by the sons of PW2 Surat Singh. There was an unexplained delay in lodging the FIR. Learned counsel further submits that the prosecution case mainly relies on the statements of PW1 Amrik Singh and PW2 Surat Singh, who are close relatives of the deceased and interested witnesses. Their statements contain contradictions and improvements when compared with earlier versions, making them unreliable. The medical evidence also does not support their version. Similarly, the alleged *lathi* blow on the leg and *gandasi* blow on the ear are not confirmed in the medical report. The alleged recovery of weapons at the instance of the appellants is also doubtful as no independent witness corroborated it. Moreover, the FSL report did not detect human blood on the recovered weapons. All these circumstances make the prosecution story doubtful. He, therefore, prays for acquittal of the appellants by giving them the benefit of doubt.

11. On the other hand, learned State counsel submits that the conviction of the appellants is well founded as it is a case of pre-planned and cold blooded murder of Makhan Singh. He further submits that the trial Court



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had erred in acquitting co-accused Surinder @ Pappu and Rajesh while the prosecution had produced sufficient material against them. The prosecution case is based on the clear and consistent ocular testimony of PW1 Amrik Singh and PW2 Surat Singh, whose presence at the spot is natural and proved. Their statements are duly corroborated by the medical evidence and the recoveries made during investigation. The land dispute provided a strong motive for the crime. The minor contradictions in the witnesses' depositions are natural and do not affect the core of the prosecution case. Non-examination of independent witnesses is immaterial when reliable direct evidence is available. The defence plea of false implication is an afterthought and unsupported by credible evidence. It is, therefore, submitted that the appeal (CRA-D-872-DB-2004) deserves to be dismissed and CRA-D-209-DBA-2005 ought to be allowed.

12. We have heard learned counsel for the parties and have perused the material available on record.

13. In order to substantiate the charge against the appellant(s), the prosecution had examined eight prosecution witnesses i.e. PW1 Amrik Singh (complainant), PW2 Surat Singh (uncle of Amrik Singh), PW3 Head Constable Jagdish Chander, PW4 Constable Jagdish Chander, PW5 Patwari Bhim Singh, PW6 Sub Inspector Ram Kishan, PW7 Dr. Pankaj Aggarwal and PW8 Inspector Om Parkash (Investigating Officer). Other prosecution witnesses were given up.

14. PW1 Amrik Singh, who is the complainant and an eye witness of the occurrence, had reiterated the same version as in his initial statement



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(Ex.PA) for registration of the FIR. PW2 Surat Singh, who is also an eye witness of the occurrence, had corroborated the prosecution story as deposed by PW1 Amrik Singh.

15. PW7 Dr. Pankaj Aggarwal had deposed that on 02.07.2000, he alongwith Dr. T. K. Kharbanda had conducted the post mortem examination on the dead body of Makhan Singh and had found the following injuries:-

- “1) Incised wound 5 cm x 2 cm on left parietal region, situated anteroposteriorly underlying bone was cut and brain tissue was exposed.*
- 2) Incised wound 11 cm x 4 cm on right parietal region situated horizontally. Injuries No.1 and 2 were meeting at end. Clotted blood was present in both injuries.*
- 3) Lacerated wound irregular 6 cm x 3 cm on left occipital area. Bone deep, crushed underlying wound was fractured and brain tissue was exposed. Clotted blood was present.*
- 4) Lacerated wound 4 cm x 2 cm through and through on pinna of left ear. Clotted blood in the left ear was present.*
- 5) Left ear lobule was cut at posterior side 4 cm x ½ cm in size.*
- 6) Boggy swelling reddish in colour on left temporal region 8 cm x 8 cm in size.*
- 7) Contusion 5cm x 3 cm on left side of chest, 7 cm above the Off the left nipple.*
- 8) Abraded contusion 3 cm x 2.5 cm on back of upper half of left fore-arm.*
- 9) Contusion 26 cm x 8 cm on back of left side of chest near scapular region.*
- 10) Contusion 8 cm x 6 cm on back of left side of abdomen above the iliac crest.”*

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He opined that the cause of death in this case was injuries to vital part i.e. brain leading to shock and haemorrhage and death. All the injuries were ante mortem in nature and sufficient to cause death in normal course of events. Ex.PE is the copy of Post Mortem Report. The probable time between death and PMR was about 04 to 36 hours. In his cross-examination, he deposed that injuries No.1 & 2 were caused by a sharp edged weapon and most probably with the same weapon. Injury No.1 can be caused by *kassi* but the possibility of injury No.2 by *kassi* is not ruled out. He further deposed that the possibility of injuries No.1 & 2 with a *gandasi* cannot be ruled out and injuries No.3 & 4 could not be caused by sharp edged weapon.

16. PW8 Inspector Om Parkash, who is the Investigating Officer in this case, had apprised with the link evidence while other prosecution witnesses were formal in nature.

17. After closing the prosecution evidence, the statements of the appellants under Section 313 Cr.P.C. were recorded wherein they had denied all the allegations and pleaded innocence. Accused/appellants Om Pal, Kalu Ram and Jawara had stated that they were cultivating the land of Dharam Pal at that time. They pleaded that a litigation was pending between the complainant party and Dharam Pal regarding that land. Makhan Singh and his family wanted to grab that land and after their arrest, the said land was purchased by the sons of Surat Singh and Surat Singh had occupied that land. They stated that the murder of Makhan Singh was a blind murder. Many criminal cases were pending against Makhan Singh, Surat Singh and Amrik Singh in Uttar Pradesh and Haryana and there were many enemies of Makhan Singh and his family

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members. They stated that they were falsely implicated in this case to grab their land. They also stated that Ex. Sarpanch Salwant Singh was instrumental in getting them falsely involved.

18. Co-accused Surinder Singh and Rajesh had pleaded that the accused Om Pal, Kalu Ram and Jawara were Jhinwars by caste while they were Brahmans. They had no land in village Simbalgarh nor any relative was living in village Simbalgarh. They were residing in village Raksera. They stated that they were falsely involved because Balbir Singh nephew of PW2 Surat Singh and son of deceased Makhan Singh alongwith Sarvan and others were convicted on account of inflicting injuries to Rajesh. They were released after undergoing a sentence of rigorous imprisonment for a period of four years immediately prior to the present occurrence. There was also a case against Rajesh for causing injuries to Makhan Singh. They stated that Sarpanch Salwant Singh and his two sons were also facing trial in that murder case.

19. In their defence, the appellants/accused had examined DW1 Roshan Lal, Deed Writer, to prove the copy of entry in his register Ex.DC, copy of sale deed Ex.DD, copy of entry in his register Ex.DE and copy of sale deed Ex.DF. DW2 Constable Surinder Singh had proved the copy of FIR Ex.DG.

20. After considering the statements of all the witnesses and taking into account the evidence led by both the sides, the trial Court had convicted the appellants-Om Pal, Kalu Ram and Jawara under Sections 120-B & 302/34 IPC and all were sentenced to undergo RI for life. However, other co-accused Surinder and Rajesh were acquitted of the charges.

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21. Keeping in view the facts and circumstances of the case and the material brought on record, this Court is of the considered view that the prosecution has failed to prove the guilt of the appellants beyond reasonable doubt.

22. First of all, there is a substantial and unexplained delay in lodging of the FIR. As per the prosecution case, the statement of PW1 Amrik Singh was allegedly recorded at 08:00 p.m. on 01.07.2000, whereas the formal FIR was registered only at about 12:30 midnight, though the police station was situated at a convenient distance and was well connected by road. Such unexplained delay creates a strong suspicion about the manner in which the prosecution story was set up.

23. The medical evidence is not in consonance with the ocular version. PW1 Amrik Singh and PW2 Surat Singh had mentioned specific injuries to each of the accused/appellant, but the injuries reflected in the post mortem report (Ex.PE) are not same with such description. The allegation against appellant-Jawara was that he had inflicted a *gandasi* blow on the ear of the deceased, whereas PW7 Dr. Pankaj Aggarwal, Medical Officer had found only a lacerated wound on the pinna of the ear, consistent with a blunt weapon and not with a sharp-edged weapon. Similarly, the eye witnesses had claimed that 7-8 blows were given by different accused persons but the post mortem report (Ex.PE) revealed only two injuries caused by sharp weapons. These inconsistencies strike at the root of the prosecution case.

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24. The alleged recovery of weapons effected from the appellants/accused by Inspector Om Parkash is not proved because no independent witness to the recovery were examined to corroborate the alleged disclosures or recoveries. The Forensic Science Laboratory report (Ex.PN) also did not detect any blood on the weapon allegedly recovered from Jawara while Inspector Om Parkash had deposed that the *gandasi* recovered from the possession of the appellant-Jawara was blood stained. Thus, the material contradictions do not lend assurance to the prosecution version.

25. The prosecution has heavily relied upon the testimonies of PW1 Amrik Singh and PW2 Surat Singh, both of them are close relatives of the deceased and admittedly inimical towards the appellants due to previous litigations and criminal cases. PW1 Amrik Singh had admitted in his cross-examination that his brothers, namely, Balbir, Vakil and Sarvan were challaned under Section 307 IPC for causing injuries to Rajesh (co-accused) and in that case, they were sentenced to RI for four years. He also admitted that prior to the present occurrence his father Makhan Singh has suffered injuries and a case under Sections 324/325/326 of Indian Penal Code was registered against Rajesh, his brother Satish and his father Ram Kishan and in that case, Satish and Rajesh were challaned. Thus, the previous enmity between complainant party and accused Rajesh and Surinder is proved from the evidence on record.

26. The only allegation levelled against Om Pal, Kalu Ram and Jawara by the complainant Amrik Singh in the statement Ex.PA is that they had been cultivating two killas of land which was abutting their land. About 5-6 days



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prior to the occurrence, Makhan Singh (deceased) had asked Om Pal that prior to sowing saplings of paddy, he should straighten the 'dole' of the fields because the boundary wall was not demarcated. PW1 Amrik Singh had deposed that his father was interested to get the demarcation before sowing of the paddy crop but he had not given any application to any revenue officer for this purpose. On the contrary, the defence has consistently maintained that there existed no motive for the appellants to cause the death of Makhan Singh. The appellants were cultivating two killas of land belonging to Dharam Pal for more than eighteen years and their possession was never disturbed. The evidence brought on record, including documentary proof such as sale deeds and revenue entries, clearly shows that it was the complainant party, who was interested in acquiring that land. Moreover, PW1 Amrik Singh as well as PW2 Surat Singh had admitted that immediately after the occurrence, the very land was purchased by the sons of Surat Singh, uncle of PW1 Amrik Singh. To substantiate this, the defence examined DW1 Roshan Lal, Deed-writer, Tehsil Samlakha, who proved the entry in the scribe register as Ex.DC and the sale deed dated 06.07.2000 as Ex. DD which shows that Joga Singh and Balbir Singh, sons of Surat Singh, purchased two killas of land from Dharam Pal and others, for a sum of Rs.3,00,000/-. The record further shows that possession was handed over to the purchasers on 06.07.2000, a date when the appellants were already in custody.

27. The complainant Amrik Singh, in his statement to the police, alleged that the accused had been hiding in the sugarcane field of Chatra and were armed with weapons. However, PW5 Bhim Singh Patwari had admitted

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that in the month of July, sugarcane crop could not be there. He also admitted that sugarcane crop was an annual crop and its height was 2 to 2 ½ feet on 05.09.2000 when he visited the spot. This admission renders the prosecution version that the accused were concealing themselves in the sugarcane crop highly improbable.

28. It has further come on record that several persons from the adjoining fields had gathered at the scene and that the complainant himself had left his uncle and 5–6 others near the dead body. Surprisingly, none of those independent persons was examined as a witness by the prosecution. The evidence of PW1 Amrik Singh and other related witnesses suffer from material contradictions and improvements over their earlier statements. In these circumstances, the testimonies of eye-witnesses do not inspire confidence and this Court finds it unsafe to place implicit reliance upon them without independent corroboration.

29. Insofar as the role of Surinder @ Pappu and Rajesh is concerned, the prosecution has failed to prove their involvement altogether. PW2 Surat Singh had himself admitted that they had no concern with the land adjoining to the place of occurrence and they had no interaction with the other co-accused. The specific role attributed to Rajesh of inflicting a lathi blow on the foot of the deceased is falsified by the medical evidence, as no such injury was found. Likewise, the alleged role of Surinder is contradicted by the post-mortem report. Moreover, Balbir Singh son of deceased Makhan Singh alongwith Sarvan and others were convicted on account of causing injuries to co-accused Rajesh and they were sentenced to undergo RI for four years and they were



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released immediately prior the present occurrence after undergoing the sentence. Therefore, the complainant party had intentionally implicated Surinder @ Pappu and Rajesh in the list of the assailants to settle the score. The trial Court was, therefore, justified in holding that the prosecution had failed to prove any common intention or participation on their part.

30. In view of the above, the appeal i.e. CRA-D-872-DB-2004 is allowed. The judgment of conviction dated 11.10.2004 and order of sentence dated 13.10.2004 passed by the learned Additional Sessions Judge, Panipat is, hereby set aside and the appellants are acquitted of all the charges by giving them the benefit of doubt. Since the appellants-Om Pal and Kalu Ram are stated to have expired, therefore, the appeal qua them stands abated.

31. Consequently, CRA-D-209-DBA-2005 filed by the State against the acquittal of Surinder @ Pappu and Rajesh is hereby dismissed.

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

(MANJARI NEHRU KAUL)
JUDGE

(H.S.GREWAL)
JUDGE

12.08.2025
A.Kaundal

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