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IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-D-468-DB-2004 (O&M)

Date of Decision: 13.05.2025

Gurdev Singh & others ... Appellants

Versus

State of Punjab ... Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Manvinder Singh Sidhu, Advocate, for the appellants.

Mr. Sidharth Attri, AAG, Punjab.

GURVINDER SINGH GILL, J.

1. Appellant No.2 - Kulwant Singh assails judgment dated 12.12.2003 passed by learned Sessions Judge (Ad hoc), Amritsar, whereby the trial Court while holding him guilty of having committed offence under Sections 302/34 and 324/34 IPC, sentenced him as under:

Offence	Imprisonment	Fine
302/34 IPC	Life imprisonment	Rs.5000/-. In default of fine, to undergo RI for 6 months
324/34 IPC	RI for 1 year	-

2. It may here be mentioned that while the instant appeal was filed by three appellants namely Gurdev Singh, Kulwant Singh and Kashmir Singh @ Billa, but on account of death of Gurdev Singh and Kashmir Singh @ Billa, the proceedings qua the said two accused/appellants stand abated vide separate



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order dated 06.05.2025 and as such, the instant appeal survives only qua appellant No.2 – Kulwant Singh.

3. The matter arises out of FIR No.12 dated 12.02.2002 registered at Police Station Valtoha, under Sections 302, 307, 201, 34 IPC (Ex.PA/2) at the instance of Gurmej Kaur. The translated gist of Gurmej Kaur's statement (Ex.PA) leading to lodging of FIR reads as under:

“I am resident of village Toot and have two sons and five daughters all of whom are married. I reside with my eldest son Gurnam Singh, aged about 50 years. Adjoining to our land, there is land of Billa son of Mukhtiar Singh. Our land is situated at a level lower than the land of Billa and thus whenever Billa used to irrigate his land, water used to flow towards our land damaging our crops. Yesterday also i.e. on 11.02.2002 when water from the land of Billa entered our fields, my son Gurnam Singh protested against the same to which Billa replied that we may do whatever we wish. At about 6.00-6.30 PM, my son Gurnam Singh went towards our wheat fields and I alongwith my daughter-in-law Ninder Kaur also followed him. I was carrying a torch. When my son Gurnam Singh entered our fields, then Billa armed with a spear, Gurdev Singh armed with a *Takua*, Darbara Singh armed with a spear, Amrik Singh armed with a spear and Kulwant Singh armed with a *kirpan* suddenly emerged from the wheat fields. Billa raised a *lalkara* that Gurnam Singh be not spared and be taught a lesson for raising objection against irrigating his land. Gurdev Singh gave a blow with *Takua* to my son Gurnam Singh hitting him on his left flank. Darbara Singh gave three blows with his spear hitting Gurnam Singh on his left flank and on his chest. Amrik Singh gave two blows with spear hitting Gurnam Singh on his head. Kulwant Singh gave three *kirpan* blows to Gurnam Singh on his waist. I and my daughter-in-law raised alarm ‘*Mar Ditta - Mar Ditta*’. Gurdev Singh and Kulwant Singh gave blows with their weapons to my son on his neck and on other parts. My son was seriously injured. When my daughter-in-law Ninder Kaur stepped forward to rescue her husband, then Billa inflicted a blow with spear to her and injured her as well. All the accused then removed the shirt of Gurnam Singh and tied him with the same and dragged him to their ‘*Behak*’ (sitting area). I and my daughter-in-law



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followed them while raising hue and cry. In our presence, Kulwant Singh gave a *kirpan* blow and Billa gave a spear blow to my son Gurnam Singh and slit his wind pipe as a result of which Gurnam Singh died at the spot. Thereafter, all the assailants ran away from the spot with respective weapons. My daughter-in-law Ninder Kaur was taken to hospital for treatment of her injuries by Sukha Singh. Bachan Singh was left near the dead body. I alongwith Baj Singh, father-in-law of Gurnam Singh was proceeding to the police station when you met me. We could not inform during night, as it was dark. The motive is that my son had been objecting to flow of water in our fields from the fields of accused. Action be taken.”

4. The aforesaid statement (Ex.PA) was recorded by PW-4 SI Piara Singh when Gurmej Kaur (complainant) and Baj Singh met him at bus-stop. After recording the statement, the same was sent to the police station for lodging of an FIR and SI Piara Singh himself proceeded to the place of occurrence alongwith Gurmej Singh and Baj Singh i.e. to the ‘Behak’ of Kashmir Singh @ Billa. Inquest proceedings were conducted. Blood stained earth was collected from the spot i.e. from ‘Behak’ of Kashmir Singh and also from the fields of Gurnam Singh (deceased). The dead body of Gurnam Singh was sent for post-mortem examination through ASI Pritam Singh and Constable Ransher Singh. Accused Gurdev Singh and Kulwant Singh were arrested on 18.02.2002. As per the case of prosecution, they were carrying *kirpan* and *Takua*, which were taken into possession by the police. Accused Kashmir Singh was arrested on 20.02.2002 while he was carrying a spear. Accused Amrik Singh was arrested on 27.02.2002.
5. Upon conclusion of investigation, challan was presented against aforesaid four accused i.e. Amrik Singh, Gurdev Singh, Kulwant Singh and Kashmir Singh on 11.05.2002 in the Court of Sub Divisional Judicial Magistrate, Patti, who committed the case to the Court of Sessions, where charges were framed



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against them for offences punishable under Sections 302/34 and 324/34 IPC on 07.08.2002 to which he pleaded not guilty and claimed trial..

6. Subsequently, upon an application under Section 319 Cr.P.C. moved by prosecution, the accused Darbara Singh was ordered to be summoned to face trial. Upon securing his presence, fresh charges were framed against all the accused on 08.05.2003 for offences under Section 148/302/324/149 IPC.
7. The prosecution in order to establish its case examined as many as 10 PWs. The gist of their testimonies is being briefly referred to herein under:-

PW-1 Dr. Sukhwinder Singh stated that on 12.02.2002, he had medico legally examined Narinder Kaur. He proved her MLR as Ex.PB, wherein he described 4 injuries found on her person. Dr. Sukhwinder Singh further stated that on the same day, he alongwith Dr. Ashish Gupta had conducted post-mortem examination on the dead body of Gurnam Singh. While proving the post-mortem report as Ex.PC, he described 16 injures found on the dead body and opined that the cause of death in this case was on account of injuries No.7, 9, 10, 11 & 12, which were sufficient to cause death in ordinary course of nature.

PW-2 Gurmej Kaur, who is the complainant in the present case, narrated the incident in the same manner, as had been stated by her to the police at the time of lodging of FIR.

PW-3 Narinder Kaur @ Ninder, wife of the deceased, who is an injured eye-witness, narrated the incident in the same manner as narrated by PW-2 Gurmej Kaur (complainant).

PW-4 SI Piara Singh stated that he had recorded the statement Ex.PA of complainant – Gurmej Kaur leading to lodging of FIR. He stated with regard to the investigation conducted by him in the matter including inquest proceedings. He proved various document and memos prepared during the course of investigation. He specifically



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stated with regard to arrest of accused Gurdev Singh and Kulwant Singh on 18.02.2002 and with regard to recovery of *Kirpan* and *Takua* from them. He also stated with regard to arrest of Kashmir Singh on 20.02.2002 and recovery of spear from him. He further stated that Amrik Singh was arrested on 27.02.2002 and that upon completion of investigation, challan was presented by him against the accused.

PW-5 ASI Pritam Singh, who is a formal witness, tendered into evidence his affidavit Ex.PO, wherein he deposed that on 12.02.2002, while he was posted at Police Station Toot, SI Piara Singh had handed over to him and to Constable Ransher Singh the dead body of Gurnam Singh for getting the post-mortem examination conducted and that he accordingly got the needful done.

PW-6 HC Ajmer Singh, who is a formal witness, tendered into evidence his affidavit Ex.PQ, wherein he deposed that on 31.03.2002, he was posted as MHC in Police Station Valtoha and that case property i.e. one parcel of clothes and two parcels of blood stained soil were handed over to him by MHC Sukhraj Singh while relinquishing the charge and that he handed over the parcels to HC Subash Raj for depositing the same in the office of Chemical Laboratory, Chandigarh, which he deposited in the said office and that as long as the parcels remained in his possession, the same were not tampered with.

PW-7 Rishi Ram, Draftsman stated that he had prepared scaled site plans of the place of occurrence and proved the same as Exs.PR and PS.

PW-8 HC Subash Raj, who is a formal witness, tendered into evidence his affidavit Ex.PW-8/A, wherein he deposed that on 31.03.2002, MHC Ajmer Singh had handed over to him the parcel containing blood stained clothes for depositing the same in the office of FSL, Punjab, Chandigarh and that on the next day i.e. 01.04.2002, he deposited the same in the said office and that as long as the parcels remained in his possession, the same were not tampered with



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PW-9 Constable Gurdev Singh, who is a formal witness, tendered into evidence his affidavit Ex.PW-9/A, wherein he deposed that on 12.02.2002, SI/SHO Piara Singh had handed over to him the special reports of this case, which he had delivered to the higher officers on the same day at 10.05 AM.

PW-10 HC Sukhraj Singh stated that he was posted as MHC at Police Station Valtoha on 12.02.2002 and that on the said day, SI Piara Singh had deposited the case property of this case with him and upon his transfer on 08.03.2002, he had handed over the case property to MHC Ajmer Singh.

8. Upon closure of the prosecution evidence, statements of all the accused were recorded in terms of Section 313 Cr.P.C., wherein they pleaded false implication on account of their inimical relations with the complainant. The accused, however, did not lead any evidence in their defence.
9. The learned trial Court, upon appraisal of evidence brought on record, held accused Gurdev Singh, Kashmir Singh and Kulwant Singh (appellant No.2) guilty of having committed offences punishable under Sections 302/34 and 324/34 IPC, whereas Amrik Singh and Darbara Singh were acquitted of the charges framed against them.
10. Learned counsel for appellant – Kulwant Singh, while assailing the impugned judgment, submitted that he has falsely been implicated in the present case on account of enmity between the complainant party and the accused due to flow of water. It has been submitted that both the eye-witnesses i.e. PW-2 Gurmej Kaur and PW-3 Narinder Kaur @ Ninder are admittedly closely related to the deceased being mother and wife of the deceased and as such, cannot be said to be independent witnesses. It has further been submitted that there is even delay in lodging of FIR inasmuch as the occurrence is stated to have taken



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place on 11.02.2002 at about 6.00 – 6.30 PM, the FIR came to be lodged the next day i.e. 12.02.2002 in the morning at about 4.30 AM and as such, it is apparent that the family of the deceased had come out with a concocted version against the accused with whom they were nursing enmity.

11. Opposing the appeal, learned State counsel submitted that it is a case where the occurrence was witnessed by two witnesses namely PW-2 Gurmej Kuar and PW-3 Narinder Kaur @ Ninder, mother and wife of the deceased, who are natural witnesses and in fact one of them i.e. PW-3 Narinder Kaur @ Ninder was herself injured in the occurrence, which would lend credibility to her statement as her presence stands established. Learned State counsel has submitted that the statements of both the said eye-witnesses are consistent on all material points and in the absence of any material to discredit them, there is no room to doubt the case of prosecution.
12. We have considered rival submissions addressed before this Court and with the assistance of learned counsel have also perused the record of the case.
13. It is apposite to first of all refer to the medical evidence led by the prosecution as regards injuries found on the dead body of Gurnam Singh and as regards cause of death. PW-1 Dr. Sukhwinder Singh, who alongwith Dr. Ashish Gupta had conducted the post-mortem examination on the dead body of Gurnam Singh, has described the injuries found on the dead body as under:
 - “1. An incised wound 5.0 x 1 cm on left perital region of scalp and was bone deep.
 2. An incised wound 6 x 1 cm on top and left side of head 5 cm inside hair line. Underlying bone was cut.
 3. An incised wound 8 cm x 1 cm on left occipital region wound bone deep add bone cut.



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4. An incised wound 6 x 0.5 cm on Rt. side of forehead and nose. Wound was bone deep.
 5. An incised wound 6 x 1 cm on left ear pinna and adjoining skull. Ear pinna and cartilage cut.
 6. An incised wound 7 x 1 cm on sub mandibular region, transfer in direction underlying muscle cut.
 7. An incised wound 16.5 x 10 cm on front and sides of neck underlying muscles vessels, nerves trachea and cut.
 8. An incised wound 1200 x 1 cm on front left side of chest of clavicular region. Wound was bone deep, Clavicular to cut.
 9. Multiple incised wound in area 150 x 5 cm on front and right side of the upper part of the chest underlying sternum, clavicular and ribs cut.
 10. An incised punctured wound 5 x 1 cm on upper left side of chest.
 11. An incised punctured wound 5 x 1 cm on upper front and left side of middle of chest.
 12. An incised punctured wound 3 x 1 cm on front and Rt. side of Chest. Underlying pleura and lungs were punctured.
 13. An incised punctured wound 5 x 1 cm on front and lateral side of rt. upper arm. 10 cm below shoulder joint.
 14. An incised punctured wound 7 x 1 cm on left side, lateral side of abdomen. Wound muscle deep.
 15. An incised wound 1.5 x 0.5 cm on left lateral and back side of abdomen. Muscle deep.
 16. A contusion 16 x 1.5 on left side and front of chest.”
14. PW-1 Dr. Sukhwinder Singh opined that the cause of death was on account of injuries No.7, 9, 10, 11 & 12, which were sufficient to cause death in ordinary course of nature. The witness was briefly cross-examined on behalf of the accused, but nothing substantial could be elicited during the course of his cross-examination so as to either doubt his veracity or his opinion. As such, we find that the medical evidence is absolutely in tune with the case of prosecution to the effect that it is a case of homicidal death where the



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deceased had been inflicted multiple injuries with sharp edged weapons leading to his death.

15. The prosecution banks upon the testimonies of PW-2 Gurmej Kaur, mother of the deceased and PW-3 Narinder Kaur @ Ninder, wife of the deceased. PW-2 Gurmej Kaur while in the witness-box stated regarding the fact that the fields adjacent to their fields belong to the accused and that since their land was situated at a higher level, water used to flow from the land of the accused into their land and at times the same led to destruction of their crops and that her son Gurnam Singh (deceased) had been requesting the accused to check the flow of water into their fields. PW-2 Gurmej Kaur categorically stated that on the day of occurrence at about 6.30 PM when Gurnam Singh went to the fields to take a round of the same, then she alongwith Narinder Kaur, wife of the deceased, also followed him and that she was carrying a torch. She stated that when her son was at about 10 *karams* from the place where water was flowing into their land from the land of the accused, the accused were seen sitting in the wheat fields. She stated that Billa raised a *lalkara* exhorting his companions not to spare Gurnam Singh. She stated that Gurdev Singh carrying a *Takua*, Darbara Singh carrying a spear, Amrik Singh carrying a spear, Kulwant Singh carrying a *kirpan* were present there. She stated that Billa himself was armed with a spear. She stated that Gurdev Singh gave a blow of *Takua* to Gurnam Singh and thereafter accused Darbara Singh gave three blows of spear on his left flank. She stated that Amrik Singh inflicted two blows with spear on his head and Kulwant Singh also gave three blows with *Kirpan* on the back of the deceased. She stated that they raised alarm. She further stated that the accused removed the shirt of



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Gurnam Singh and tied his arms with the same. She further stated that Narinder Kaur, wife of Gurnam Singh, also sustained injuries at the hands of the accused. She stated that accused dragged Gurnam Singh to the house of Billa and they followed them raising hue & cry. PW-2 further stated that accused took Gurnam Singh inside their house where accused Billa and Kulwant Singh slit his wind pipe with a *Kirpan* and murdered him.

16. PW-3 Narinder Kaur, wife of the deceased, has also narrated the occurrence identically regarding the accused having inflicted injuries to her husband with weapons like *Kirpan*, *Takua* and spear. She further stated that accused Billa gave a blow to her with a spear on her head. PW-3 also stated that thereafter the accused removed the shirt of Gurnam Singh and tied his arms and dragged him to the house of Billa, where accused Billa and Kulwant Singh slit his wind pipe with a *Kirpan* leading to his death. Both the witnesses i.e. PW-2 Gurmej Kaur and PW-3 Narinder Kaur were cross-examined at length, but nothing substantial could be elicited during the course of their cross-examination so as to doubt their credibility. Although it is correct that both the said witnesses are closely related to the deceased, but at the same time their presence in the fields cannot be doubted, as it is not uncommon that the ladies would also accompany their husband to the fields. Still further, the factum of presence of PW-3 Narinder Kaur, wife of the deceased, is fully substantiated from the fact that she herself was inflicted injury by accused Billa, as has been categorically stated by her and also by PW-2 Gurmej Kaur. The factum of existence of injuries is substantiated from the testimony of PW-1 Dr. Sukhwinder Singh, who had medico legally examined PW Narinder Kaur on 12.02.2002 and found following injuries on her person:



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- “1. An incised wound 6.5 x 1 cm longitudinal in direction on the middle of head on frontal region, just inside hair line. Wound was bone deep -clotted blood was present. X-ray was advised.
 2. A reddish contusion 6 x 1.6 cm on the back and left side of neck. X-ray advised.
 3. A reddish contusion 8 x 2 cm on left lateral side of abdomen. Kept under observation.
 4. A reddish contusion 7 x 0.5 cm on the left gluteal region.”
17. Injury No.1, as noticed above, is an incised wound on the middle of the head. The Doctor has opined that the kind of weapon used for causing injury No.1 was a sharp edged weapon, as is the specific case of prosecution that the accused had inflicted injury on the head of Narinder Kaur with a spear. As such, we do not find any ground to doubt the presence of Narinder Kaur at the place of occurrence accompanied by her mother-in-law PW-2 Gurmej Kaur. Both the said witnesses have narrated the incident identically. Appellant Kulwant Singh is stated to be carrying a *Kirpan* and had inflicted three blows with the same to deceased. He (Kulwant Singh) alongwith accused Billa had also slit the wind pipe of Gurnam Singh (deceased) with a *Kirpan*. A perusal of the post-mortem report shows that as many as 15 incised wounds were found on various parts of the dead body including head, forehead, ear, neck and chest which clearly substantiate the version of the eye-witnesses to the effect that the accused had caused multiple injuries with sharp edged weapons to the deceased leading to his death.
18. Although there is some delay in lodging the FIR inasmuch as while the occurrence is stated to have taken place at about 6.30 PM on 11.02.2002, the FIR came to be lodged at 4.30 AM on 12.02.2002 i.e. after about a gap of 10 hours, but such delay in lodging the FIR *ipso facto* would not demolish the



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case of prosecution and would only warrant that the evidence is scrutinized carefully so as to rule out case of any false implication. In the present case, the occurrence had taken place in the month of February, which is part of the winter season. Both the eye-witnesses i.e. PW-2 Gurmej Kaur and PW-3 Narinder Kaur were ladies and having witnessed their son/husband being brutally murdered would apparently be in a state of shock. Given the fact that the occurrence had taken place in a rural set-up during late evening and the eye-witnesses were both ladies and while also noticing that the case of prosecution is otherwise not found to be lacking on any ground, the mere delay in lodging the FIR would not affect the case of prosecution in any manner.

19. In view of the discussion made above, we find that the prosecution has led ample evidence and has fully substantiated the charges framed against the accused. Consequently, we do not find any infirmity in the findings of guilt as recorded by the trial Court and the same are hereby affirmed. The appeal is sans merit and is hereby dismissed.
20. A copy of this judgment be sent to the quarters concerned for necessary compliance.

(GURVINDER SINGH GILL)
JUDGE

13.05.2025
Vimal

(JASJIT SINGH BEDI)
JUDGE

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