



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

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**CRA-D-641-DB-2004 (O&M)**  
**Date of decision: 28.07.2025**

**Nishan Singh**

**....Appellant**

**V/s**

**State of Punjab**

**....Respondent**

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

Present: Mr.P.B.S.Goraya, Advocate, for the appellant.  
Mr.H.S.Deol, Sr.DAG, Punjab.

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**H.S.GREWAL, J.**

1. The instant appeal has been preferred against the judgment of conviction dated 15.05.2004 passed by the learned Sessions Judge, Ludhiana wherein the accused-appellant had been sentenced to undergo rigorous imprisonment for life along with fine of Rs.10,000/-, in default of payment of fine to further undergo rigorous imprisonment for a period of six months under Section 302 IPC.

2. The case of the prosecution has arisen out of FIR No.32 dated 14.05.2001 under Sections 323, 324, 325 of the IPC, registered at Police Station Raikot, District Ludhiana. The facts of the case are that accused-appellant lived in the paternal house of deceased-Balwinder Kaur for the



last about 10 years. Since Balwinder Kaur had no brother and her father had also expired, the accused-appellant-Nishan Singh used to look after her land and house. About a month prior to the date of occurrence, accused-appellant had asked Balwinder Kaur to sell her share of the land so that he could start his business with that money but she had refused to do so. Therefore, on the night of 8<sup>th</sup> May, 2001, after finishing her household work, she laid on the cot in the courtyard at about 12:30 in the night when her husband came to her and said that he will see as to how she will not sell the land. Thereafter, he gave a blow with a *kulhari* (axe) on her head and thereafter blood started oozing from her head. The appellant gave another axe blow from the reverse side which landed on her right arm. She raised alarm and on hearing the same, Karamjit Singh son of Nahar Singh and Iqbal Singh son of Karamjit Singh reached their house and thereafter her husband/appellant ran away from the spot. That on that night, she took medicines from the private doctor at Pandori and in the morning her maternal grand-father Dilip Singh got her admitted in Civil Hospital, Raikot for treatment. She was declared unfit to make statement. Thereafter, on 14.05.2021, she was declared fit to make statement. She got recorded her statement on 14.05.2001 and on her statement, the present FIR was registered on 14.05.2001 under Sections 323, 324 and 325 IPC only and challan was also presented under Section 323, 324 and 325 IPC only. Injured Balwinder Kaur was discharged from hospital on 15.05.2025. Thereafter, on 05.06.2001, Balwinder Kaur-deceased was again admitted to Gurkirat Hospital, Raikot and on 06.06.2001, she was



referred to Arora Neuro Hospital, Ludhiana, where she expired on 13.06.2001 due to septicaemia. Thereafter, on the statement of deceased's maternal grandfather, offence under Section 302 IPC was added.

3. Learned counsel for the appellant has contended that the conviction of the appellant under Section 302 IPC is wholly unsustainable in the light of the medical evidence on record. It is submitted that the primary allegation of the prosecution was that the deceased suffered a fatal *axe* blow on her head at the hands of the appellant. However, the medical evidence, particularly the postmortem report (Ex.PE) and the testimonies of the medical experts, categorically reveal that the cause of death was not the alleged injury but septicaemia resulting in multi-organ failure. Dr. Ripan Miglani (PW-9) clearly deposed that the deceased was admitted for treatment of urinary tract infection and not for head injury, which was treated elsewhere and found to be normal on MRI scan. Further, PW-1 Dr. Harinder Sharma, who conducted the postmortem, opined that while the injury on the head could have been caused by a *kulhari (axe)*, the actual cause of death was septicaemia, which developed about a month after the injury, and cannot be directly attributed to the incident dated 08.05.2001. It is further submitted that the initial FIR was registered only under Sections 323, 324, and 325 IPC, and even the challan was presented under the same sections. It was only after the death of the deceased on 13.06.2001 that Section 302 IPC was added belatedly, based on the statement of the maternal grandfather and not on any direct



medical link between the injury and the death. He further submits that there are material contradictions between the ocular and medical evidence, as well as the hostility of key eyewitnesses PW-7 and PW-8. He has placed reliance upon the judgments of the Supreme Court in B.N. Kavatakar versus State of Karnataka, 1994 (Supp1.) SCC 304 and Dev Raj versus State of Punjab, 1992 (1) RCR (Criminal) 686.

4. On the other hand, learned State counsel, has contended that the judgment passed by the learned Court below is well-reasoned and based on proper appreciation of facts and evidence. The contentions raised by the learned counsel for the appellant(s) are misplaced and do not require interference by this Court.

5. To prove its case, the prosecution had examined as many as 10 witnesses. PW-1 Dr. Harinder Sharma, who had conducted the postmortem on the person of the deceased was examined as PW-1.

6. Satish Kumar Draftsman, was examined as PW-2 who had prepared the scaled site plan Ex.PD.

7. Dalip Singh, maternal grandfather of the deceased, was examined as PW-3. He had deposed that he reached the spot in the night of 8<sup>th</sup> May, 2001 on being telephonically informed and he reached Dhoorkot on 06:30 A.M., thereafter he took Balwinder Kaur from Civil Hospital, Raikot to their house on 08.05.2001 and she was in her senses at that time.

6. PW-4 Dr. Manbir Singh, Gurkirat Hospital, Raikot had deposed regarding admission of the deceased on 05.06.2001 and her discharge on 06.06.2001.



8. ASI Mohd. Jamil appeared as PW-5 and deposed regarding the investigation carried out in the case.

9. PW-6 Dr. Nazir Singh, Medical Officer, had examined Balwinder Kaur on 09.05.2001 at Civil Hospital, Raikot and deposed regarding the injuries suffered by the deceased.

10. PW-7-Iqbal Singh and PW-8 Karamjit Singh were introduced by the prosecution as eye-witnesss, however, both were turned hostile.

11. PW-9- Dr.Ripan Miglani, Medical Officer in DMC Hospital, Ludhiana had examined the deceased at Arora Neuro Centre, Ludhiana.

12. PW-10 Nirmal Singh, Head Constable, Police Staion Raikot, had appeared as a recovery witness.

13. We have heard learned counsel for the parties and perused the relevant material placed on record.

14. The prosecution claims that the deceased-Balwinder Kaur died as a result of an axe blow on her head, but the medical evidence indicates otherwise.

15. PW-6 Dr. Nazir Singh, Medical Officer, Civil Hospital, Raikot has described the injuries as follows:

“1. Incised wound of 6 cm x 1 cm. bone deep was present on the right side of top of head.7 cm away from the interior hair line. Clotted blood was present.X-ray was advised. Injury was kept under obseration.



2. Red contused swelling of 1.5 cm.x 1 cm was present at the dorsal surface of right wrist joint of hand X-ray was advised.”

16. However, PW-9 Dr. Ripan Miglani, Post Graduate in DMC Hospital, Ludhiana, working at Arora Neuro Centre, Ludhiana has stated that the patient was admitted with Urinary Tract Infection and for head injury, she was treated elsewhere. He has also stated that MRI scan of the head and the report of the Radiologist revealed that the head injury was normal. It is clear from the postmortem Ex.PE conducted by Dr. Harinder Sharma PW-1 that the cause of death in the opinion of the doctor was due to septicaemia resulting in multi-organ failure. He has also stated that death of Balwinder Kaur may have been caused due to injury No.1 on the person of deceased caused by a *kulhari* (axe) blow, however, he has categorically stated that the cause of death is due to septicaemia leading to multi-organ failure.

17. It is an admitted case of the prosecution that injury was caused on 8<sup>th</sup> May, 2001, FIR was registered on 14.05.2001 and the deceased was discharged from hospital on 15.05.2001. Deceased was again admitted in hospital on 06.06.2001, however, it was due to urinary tract infection and not due to the injuries suffered on the head and thereafter, she died on 13<sup>th</sup> June, 2001 due to septicaemia. Therefore, although the injury was a sharp blow on the head and it was bone deep but it was not the cause of death and that too after more than one month. It



was due to some infection in the body which resulted in septicaemia leading to her death.

18. After carefully examining the entire material on record and hearing the arguments advanced by learned counsel for the parties, this Court is of the considered view that the prosecution has failed to establish the charge under Section 302 of the Indian Penal Code against the accused-appellant beyond reasonable doubt. It is evident from the medical evidence, particularly the postmortem report (Ex.PE) and the depositions of the medical experts, that the deceased Balwinder Kaur did not die as a direct result of the injury allegedly inflicted by the appellant on 08.05.2001. The cause of death, as per the medical opinion of PW-1 Dr. Harinder Sharma, was septicaemia resulting in multi-organ failure, which developed nearly a month after the alleged incident. Although it was opined that injury No.1 could have been caused by a *kulhari (axe)*, it was not stated to be the direct or proximate cause of death.

19. Furthermore, PW-9 Dr. Ripan Miglani clearly deposed that the deceased was admitted to Arora Neuro Centre for urinary tract infection, and that the MRI scan of the head was normal, indicating no lasting or fatal consequence from the earlier injury. In addition, both alleged eyewitnesses, PW-7 Iqbal Singh and PW-8 Karamjit Singh, were declared hostile, thereby further weakening the prosecution's case.

20. It is also significant to note that the FIR was initially registered under Sections 323, 324, and 325 IPC, and only after the death of the deceased and based on the statement of the maternal grandfather,



Section 302 IPC was added belatedly, without any concrete medical nexus to support such enhancement.

21. In view of these material inconsistencies, contradictions between medical and ocular versions, and the absence of conclusive evidence establishing a direct link between the injury and the death, it cannot be said with certainty that the death of Balwinder Kaur was homicidal in nature attributable to the act of the appellant.

22. Accordingly, the appellant Nishan Singh is acquitted of the charge under Section 302 IPC, by giving him the benefit of doubt. However, based on the evidence of injury sustained by the deceased, the offence under Section 325 of the IPC is made out against the appellant. Therefore, he stands convicted under Section 325 of the IPC. The appellant has undergone a period of 5 years, 3 months and 1 day of custody. Therefore, keeping in view the custody period undergone by the appellant under Section 325 of the IPC, the same is reduced to the period he has already undergone.

23. Criminal appeal stands disposed of accordingly.

**(MANJARI NEHRU KAUL)**  
**JUDGE**

**(H.S.GREWAL)**  
**JUDGE**

**July 28, 2025**  
**poonam**

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/No