

2025:PHHC:022015-DB



**In The High Court for the States of Punjab and Haryana
At Chandigarh**

I

CRA-173-DB-2005 (O&M)
Date of Decision:- 15.02.2025

Jagtar Singh

... Appellant

Versus

State of Punjab

... Respondent

II

CRA-D-498-DB-2006 (O&M)

Jagdev Singh

... Appellant

Versus

State of Punjab

... Respondent

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

Present:- Mr. Surinder Garg, Advocate, for the appellant
in CRA-173-DB-2005.

Mr. Surinder Garg, Amicus Curiae,
for the appellant in CRA-D-498-DB-2006.



Mr. Harkanwar Jeet Singh, AAG, Punjab.

GURVINDER SINGH GILL, J.

1. This judgment shall dispose off the above mentioned two appeals filed by appellants Jagtar Singh and Jagdev Singh wherein judgment dated 10.01.2005 passed by learned Sessions Judge, Faridkot is being assailed vide which both the appellants had been held guilty of having murdered Jaswinder Singh and have been sentenced as under:-

Section	Sentence
302/34 IPC	To undergo rigorous imprisonment for life and to pay a fine of Rs.1000/- and in default of payment of fine to further undergo rigorous imprisonment for six months each.
201/34 IPC	To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.500/- and in default of payment of fine to further undergo rigorous imprisonment for three months each.

2. The FIR (Ex.P-33) was lodged on the statement/*ruqa* (Ex.P-32) of complainant Sonam Rani @ Seema on 15.11.2001 wherein she alleged that she had earlier been married to Rajesh @ Banty who was addicted to intoxicants, but since they could not pull-on together, they started residing separately and with the intervention of the Panchayat, it was settled that each of them would be at liberty to contract second marriage. The complainant stated that subsequently, she solemnized marriage with Jaswinder Singh (deceased). However, her previous husband Rajesh along with Karam Singh and two other persons came to the house of her in-laws and also to the shop of Lakhwinder Singh (elder brother of deceased) and issued threats to kidnap Jaswinder



Singh and that they would not be allowed to live peacefully. Although, the complainant and others lodged their protest in this regard through their relatives, but Rajesh again threatened the complainant telephonically. It is alleged that Bittu who is a relative of complainant's earlier husband Rajesh being his 'jija' (brother-in-law) had also threatened her telephonically several times while stating that Jaswinder Singh would be killed and even his dead body would not be ever recovered. Although, the complainant and others again lodged protest through their relatives but to no avail. Complainant alleged that on 23.08.2001, when she along with her husband Jaswinder Singh were going towards Ferozepur, they were followed by Rajesh and his companions. On 13.09.2001, the complainant, as per routine had left home for selling clothes and he had taken moped of complainant's father-in-law, but he did not return though he usually returned home by 2:00 PM. Although, the complainant along with her relatives searched for her husband, but he could not be found. On 15.09.2001, when the complainant alongwith her father-in-law Harbhagwan Singh, her brother-in-law Lakhwinder Singh and Mulkh Raj were going in a jeep from village Buttar towards village Sangrahoor in search of her husband, they saw some persons having gathered near a bridge on water channel. When the complainant and her companions stopped there, they saw a dead body lying at the bridge which was found to be that of complainant's husband. The neck of the dead body had been strangulated with a piece of cloth



(*parna*) and the dead body had been tied in a yellow coloured '*palli*' (large piece of cloth). The complainant alleged that her husband had been murdered by Rajesh Kumar, Bittu and their companions.

3. Pursuant to lodging of the FIR, the police reached at the spot and took out the dead body from canal bed. Inquest proceedings were conducted and the dead body was sent for post mortem examination. A rough site plan of the place of recovery of dead body was prepared. It is further the case of prosecution that on 16.09.2003, SI Satwant Singh recorded statement of PW-5 Mukhtiar Singh who stated that on 15.02.2003 accused Jagdev Singh and Jagtar Singh came to him at Sadiq Chowk, Faridkot and had confessed their guilt before him while stating that they along with Daljit Kaur had murdered Jaswinder Singh and while requesting him that they be produced before the police, went away saying that they will meet him the next day, but they never came again.
4. It is further the case of prosecution that the police was however, able to arrest both the accused from the house of Jagdev Singh, where Daljit Kaur was also present. Jagdev Singh made a disclosure statement (Ex.P-39) wherein he disclosed that he had dismantled the moped bearing registration No. PB-04-F-8529 belonging to deceased Jaswinder Singh and had buried and concealed the engine parts and could get the same recovered. Pursuant to his statement, he got the said spare parts recovered vide memo Ex.P-40. Jagtar Singh also suffered a disclosure statement (Ex.P-41) to the effect that he had also



kept concealed some spare parts of the moped and pursuant to the same got the same recovered vide recovery memo Ex.P-42. Daljit Kaur (since acquitted) is also stated to have suffered disclosure statement (Ex.P-43) regarding concealment of clothes which were being carried by the deceased on his moped. Pursuant to aforesaid disclosure statement she got the clothes in the shape of 10 ladies suit recovered from her house which were taken into possession vide recovery memo Ex.P-44. While the aforesaid disclosure statements were made on 19.02.2003, Jagtar Singh made another disclosure statement on 21.2.2003 (Ex.P-45) regarding his having concealed clothes which were being carried by Jaswinder Singh on his moped. Pursuant to the disclosure statement, he got the said clothes recovered from his house which were taken into possession vide recovery memo Ex.P-46.

5. Upon completion of investigation the police found Rajesh and Bittu who had been named in the FIR to be innocent. However, a challan was presented against Jagdev Singh, Jagtar Singh and Daljit Kaur in the Court of Chief Judicial Magistrate, Faridkot on 26.03.2003, who committed the case to the Court of Sessions vide order dated 07.04.2003. Charges were framed against the accused for offence punishable under Sections 302 and 201 read with Section 34 IPC by learned Sessions Judge, Faridkot on 30.04.2003 to which accused pleaded not guilty and claimed trial.



6. The prosecution in order to substantiate its case examined as many as 12 PWs. The gist of their testimonies is referred to herein under:-

PW-1 Head Constable Ashok Kumar stated that on 19.02.2003 he was posted as a photographer in C.I.A. Staff, Faridkot and on the said day he had taken photographs of one moped taken out after digging soil by the accused. He proved photographs Ex.P-1 to P-13 and negatives Ex.P-14 to P-26.

PW-2 Sukhmander Pal Singh, Clerk, DTO, Faridkot produced the record pertaining to registration of Hero Majestic Moped bearing registration No.PB-04-F-8529 which was registered in the name of Harbhagwan Singh (father of deceased).

PW-3 Dr. J.S.Dalal who had conducted post mortem examination on the dead body of Jaswinder Singh, proved post mortem report as Ex.P-28 and opined that the cause of death was Asphyxia as a result of constriction of neck by '*parna*' which was sufficient to cause death in ordinary course of nature.

PW-4 ASI Amarjit Singh stated that on 15.09.2001 he was posted as MHC at Police Station Sadiq and that pursuant to receipt of *ruqa* (statement of Soname Rani) Ex.P-32 he had recorded formal FIR Ex.P-33 and had sent special reports to Illaqa Magistrate and to Gazetted Officers of the police. He further stated that on the same day SI Balwinder Singh deposited a parcel containing foam and on 16.09.2001 he (SI Balwinder Singh) deposited another parcel



containing clothes of the deceased. He further stated that as long as the said parcels remained in his custody the same were not tampered with.

PW-5 Mukhtiar Singh stated that on 15.02.2003 when he was present at Sadiq Chowk, Faridkot and was waiting to board bus, Jagdev Singh and Jagtar Singh met him and asked him about his village and he accordingly disclosed his identity and also told them that he was Lambardar of village Golewala, upon which accused Jagdev Singh and Jagtar Singh confessed having murdered Jaswinder Singh and requested him to produce them before police. PW-5 further stated that he told the accused to come to his village and that he will produce them before the police and the accused while promising him that they will come to his village the next day, went away.

PW-6 Head Constable Sukhdev Singh stated that on 15.09.2001 while he was posted at Police Station Sadiq, MHC Amarjit Singh handed over special reports to him which he delivered to the Illaqa Magistrate and to the Gazetted Police Officers on the same day.

PW-7 Head Constable Hardeep Kumar stated that on 15.09.2001 when he along with SI Balwinder Singh and other police officials was present near Government School Ferozepur road, Janerian, Sonam Rani got her statement (Ex.P-32) recorded before SI Balwinder Singh and thereafter all of them went to the place of occurrence where dead body of Jaswinder Singh was found lying in the canal tied in a '*palli*'



(large piece of cloth). He stated that SI Balwinder Singh prepared inquest report (Ex.P-30). He further stated that the dead body was thereafter sent for post mortem examination and after post mortem examination the dead body had been handed over to the legal heirs of the deceased.

PW-8 SI Balwinder Singh stated that on 15.9.2001 he was posted as SHO, Police Station Sadiq and on the said day while he along with other police officials was present on main Ferozpur road in connection with patrolling, then Sonam Rani met them and got her statement (Ex.P-32) recorded, on the basis of which formal FIR was lodged. He further stated that thereafter he along with Sonam Rani went to the area of village Buttar near bridge on the canal minor where dead body of Jaswinder Singh was lying in the bed of the canal minor and that he prepared the rough site plan Ex.P-36 and conducted inquest proceedings (Ex.P-30) and sent the dead body for post mortem examination.

PW-9 Sonam Rani (complainant) stated in tune with the version got recorded by her in the FIR. She additionally stated that while at the time of her previous statement ('*ruqa*' Ex.P-32), she suspected Banty (Rajesh) and Bittu had murdered her husband as they had been threatening her and that it was much later that Mukhtiar Singh disclosed about the assailants.



PW-10 Lakhwinder Singh stated that deceased Jaswinder Singh was his younger brother who was married to Sonam Rani and that on 13.9.2001 Jaswinder Singh left home in the morning to sell clothes on moped bearing registration No.PB-04F-8529 which belonged to his father, but did not return home and later when Sonam Rani informed him about the same, they searched for him for two days and later the dead body was found lying in canal minor in village Sangrohoor which had been tied in a 'palli'. PW-10 further stated that on 19.02.2003 he had associated with the police party and had gone to the house of Jagdev Singh where Jagdev Singh was found present along with Daljit Kaur and Jagtar Singh and that they were interrogated by the police, during the course of which they made disclosure statements leading to recovery of engine parts of moped and also un-stitched clothes.

PW-11 ASI Rachhpal Singh stated that on 19.02.2003 he was associated with the investigation of the case with Inspector Satwant Singh and other police officials and had gone to the house of Jagdev Singh (accused) from where Jagdev Singh, Jagtar Singh and Daljit Kaur were arrested and were interrogated.

PW-12 Inspector Satwant Singh stated that on 16.2.2003 he was posted at C.I.A. Staff, Faridkot when Harbhagwan Singh and Mukhtiar Singh met him and got their statements recorded in terms of Section 161 Cr.P.C. He stated that even the statement of Sonam Rani was recorded in terms of Section 161 Cr.P.C. He further stated that



on 19.2.2003 Lakhwinder Singh (PW-7) came to him and got his statement recorded and then he along with Lakhwinder Singh and other police officials went to the house of Jagdev Singh from where Jagdev Singh, Jagtar Singh and Daljit Kaur were arrested and were interrogated, during the course of which they made disclosure statements and got recovered some articles. He further stated that upon conclusion of investigation accused were challaned by SHO Iqbal Singh.

7. Upon conclusion of prosecution evidence, the entire incriminating evidence was put to the accused in terms of Section 313 Cr.P.C. to enable them to explain the same, but the accused denied the entire prosecution case in toto and pleaded false implication. The accused however, did not chose to lead any evidence.
8. Learned trial Court upon considering evidence on record held that while prosecution had failed to establish charges framed against accused Daljit Kaur, but found accused Jagdev Singh and Jagtar Singh guilty of having committed offence punishable under Section 302 and 201 read with Section 34 IPC and sentenced them to undergo life imprisonment vide judgment dated 10.01.2005 which is assailed in this appeal.
9. Learned counsel for the appellants while assailing the impugned judgment submitted that the instant case is a case based totally on circumstantial evidence wherein the investigating agency while



giving a clean-chit to the two accused who were named in the FIR, has falsely roped in the present appellants on the basis of alleged extra judicial confession made before Mukhtiar Singh (PW-5) and on the basis of alleged disclosure statement made by accused leading to recovery of engine parts of moped and some clothes. It has been submitted that even the said evidence in the shape of extra judicial confession is far from being trustworthy and a perusal of the testimony of PW-5 Mukhtiar Singh itself reveals that the extra judicial confession is nothing, but a vain attempt on the part of the prosecution to falsely implicate the appellants. Learned counsel further submitted that the alleged recovery of engine parts of moped and some clothes at the instance of the accused has no relevance to the occurrence in question much less establishing the case of prosecution.

10. Opposing the appeals, learned State counsel submitted that even though there is no eye-witness to the alleged occurrence, but the circumstantial evidence led by the prosecution fully establishes the charges framed against the accused and that there being no infirmity in the impugned judgment, the appeals deserve dismissal.
11. This Court has considered rival submissions and have also perused the record of the case.
12. It is apposite to first of all refer to the medical evidence as regards the alleged homicidal death of deceased Jaswinder Singh. The dead body



had been subjected to post mortem examination. Dr. J.S. Dalal stepped into the witness box as PW-3 wherein he described the injuries found on the dead body as under:

- “1) An oblique lacerated wound 3 CMs x 1.5 cms bone deep was present on the right side of the forehead, 3 cms, from the midline and 2.5 cms above right eye brow. clotted blood was present.
- 2) A transverse reddish contusion 6 cm x 2 cms was placed on the front of left leg just above left knee, blotted blood was present in sub-cutaneous tissues.
- 3) A checked *Parna* was firmly tied around the neck with knot on the right side of the neck. It was preserved by cutting from the left side. On removing the *parna* from the neck there was a depressed ligature mark of *Parna* on the neck, just below thyroid cartilage, with both margins abraded here and there. On dissections, the sub-cutaneous tissue and corresponding muscles of the neck were contused with blood clots in it. The ligature marks were circular and encircled the neck all around and was 3.5 cms in diameter in its width and was pale in colour.
- 4) A horizontal reddish abrasion 1.5 cm x 1.5 cms was present on antero-lateral surface of the left upper arm superiorly in its upper 1/4th. On dissection, clotted blood was present in sub-cutaneous tissues.
- 5) A reddish irregular abrasion 3cm x 2.5 cm was present on the left side of face, 4.5 cm lateral and below left angle of mouth and 6cm from the midline of chin. On dissection, clotted blood was present in the sub-cutaneous tissues.
- 6) A reddish irregular abrasion 5cm x 3 cm was present on the right side of neck just below the right ear. On dissection, the clotted blood was present in the sub-cutaneous tissues.
- 7) An oblique lacerated wound 3cm x 2cm was present on the right side of the head. 6 cms above right ear, blotted blood was present.”



13. While describing the cause of death PW-3 stated that in his opinion death had been caused due to Asphyxia as a result of constriction of neck by '*parna*' which was sufficient to cause death in the ordinary course of nature. The witness was briefly cross-examined on behalf of the accused but nothing could be elicited so as to doubt either the veracity or opinion of the doctor as regards the homicidal death of deceased Jaswinder Singh which stands fully established from his statement and his report (post mortem report Ex.P-28).
14. Admittedly, there is no eye-witness to the occurrence in question and in order to establish the charges framed against the accused, the prosecution banks upon the following two pieces of circumstantial evidence:
- i. Extra judicial confession made before PW-5 Mukhtiar Singh;
 - ii. Disclosure statements of accused and the recoveries effected pursuant thereto;
15. Extra judicial confession made before PW-5 Mukhtiar Singh
- While in the FIR, the complainant had expressed that her husband had been done to death by her previous husband Rajesh Kumar @ Banti and by Bittu son of Parkash and their companions, but the aforesaid two named accused were found to be innocent during the course of investigation. Pursuant to extra judicial confession made by Jagtar Singh and Jagdev Singh before Mukhtiar Singh (PW-5), the present accused came to be arrested. While proceeding to scrutinize



statement of PW-5 Mukhtiar Singh, it is apposite to notice some of the relevant dates which need to be borne in to ascertain the authenticity and evidentiary value of the alleged extra judicial confession:

- i. 13.09.2001 : Deceased went missing from home
- ii. 15.09.2001 : FIR lodged by Sonam Rani wife of deceased Jaswinder Singh wherein she alleged that her husband had been murdered by Rajesh Kumar @ Banti and by Bitu son of Parkash
- iii. 15.02.2003 : As per PW-5 Mukhtiar Singh, when he was waiting for bus at Sadiq Chowk, Faridkot, then Jagdev Singh and Jagtar Singh met him and confessed their guilt before him and requested him to produce them before police and he asked them to come to his village on the next day, upon which the accused left from there.

16. The aforesaid dates would reveal that the alleged disclosure statement was made after one year and 5 months of the occurrence and that too when PW-5 Mukhtiar Singh was waiting for a bus at Sadiq Chowk, Faridkot. A perusal of his statement further show that neither he was known to the accused earlier nor the accused were known to him. Rather, accused after coming up to him inquired about his identity. While PW-5 Mukhtiar Singh is a resident of Village Golewala, the accused are residents of different villages i.e. of village Doad and Village Chak Sahu. Such being a position, the extra judicial



confession cannot be said to be free from doubt. Relying upon such like statement would not be safe particularly when it is a case based on circumstantial evidence and there is hardly any other convincing evidence.

17. Disclosure statements of accused and the recoveries effected pursuant thereto

As per PW-12 Inspector Satwant Singh, on 19.2.2003 he went to the house of Jagtar Singh along with ASI Rachhpal Singh and other police officials from where Jagtar Singh, Jagdev Singh and Daljit Kaur arrested. He further stated that during the course of interrogation, they made their respective disclosure statements i.e. Ex.P-39, Ex.P-41 and Ex.P-43, pursuant to which they got recovered engine parts of the dismantled moped and also some clothes which were allegedly carried on the moped by the deceased for the purpose of selling the same. Even if the factum of recovery of some clothes and engine parts at the instance of the accused is accepted to be true, still the evidentiary value of factum of such recovery could assume importance only if there is other convincing evidence in support of the case of the prosecution. The only other piece of evidence led in the present case is extra judicial confession which, as already discussed above, has been found to be doubtful. Still further, there is absolute absence of any motive for murdering the deceased. Though, the complainant in the FIR while naming one Rajesh Kumar, her ex-husband had attributed a motive, but said Rajesh has already been given a clean-chit as there is no evidence whatsoever on record to



attribute any motive to the appellants. Co-accused Daljit Kaur has already been acquitted by the trial Court.

18. It is well settled that motive would normally take a back seat in the case of murder, but when the case is sought to be established solely on the basis of circumstantial evidence, motive does assume considerable importance. Hon'ble Apex Court in 2007(7) SCC 502 Sukhram vs. State of Maharashtra, observed as under:

“It also needs to be emphasised at this stage itself that in a case based on circumstantial evidence motive assumes great significance inasmuch as its existence is an enlightening factor in a process of presumptive reasoning.”

19. Hon'ble Supreme Court in AIR 2023 Supreme Court 1239 Indrajit Das vs. State of Tripura, while dwelling on the importance of motive in a case based on circumstantial evidence held as under:

“15. In a case of circumstantial evidence, motive has an important role to play. Motive may also have a role to play even in a case of direct evidence but it carries much greater importance in a case of circumstantial evidence than a case of direct evidence. It is an important link in the chain of circumstances. Reference may be made to the following two judgments on the importance of motive in a case of circumstantial evidence:

- (1) *Kuna Alias Sanjaya Behera v. State of Odisha* (2018) 1 SCC 296; and
- (2) *Ranganayaki v. State by Inspector of Police* (2004) 12 SCC 521.”

20. In a recent judgement, 2025(1)RCR(Criminal) 140 Nusrat Parween vs. State of Jharkhand, Hon'ble Supreme Court has held although proof of motive is not *sine qua non* in a case of murder but in a case based purely on circumstantial evidence, motive if properly



established, assumes great significance and would definitely provide an important corroborative link in the chain of incriminating circumstances and strengthen the case of prosecution.

21. It is well settled that in a case based on circumstantial evidence, the prosecution is expected to lead sterling evidence to establish all the links in the chain of circumstantial evidence which collectively would lead to one and only one conclusion that it is the accused who had murdered the deceased.
22. The aforesaid principles have consistently been followed and have been affirmed in catena of authorities. Recently, a three Judges Bench of Hon'ble Apex Court reiterated the aforesaid position of law in 2025(1) RCR(Criminal) 12, Vishwajeet Kerba Masalkar v. State of Maharashtra, and while doing so also referred to the case of Sharad Birdhichand Sharda v. State of Maharashtra (1984) 4 SCC 116 1984 INSC 121, wherein it has been held that the following conditions must be fulfilled before a case against an accused can be said to be fully established:
 - (1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned "must or should" and not "may be" established.
 - (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,



- (3) the circumstances should be of a conclusive nature and tendency,
 - (4) they should exclude every possible hypothesis except the one to be proved, and
 - (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused
23. The above referred five conditions are the golden principles on which any case based on circumstantial evidence would rest. It is necessary for the prosecution that the circumstances from which the conclusion of guilt is to be drawn should be fully established and the chain of evidence should be so complete that the facts so established should be totally consistent with one and only one version i.e. as regards guilt of accused.
24. In view of the discussion made above, we find that the evidence led by the prosecution falls grossly short to establish the guilt of the accused. The extra judicial confession is far from convincing and, in any case, is a weak type of evidence. The other piece of evidence which is in the shape of disclosure statement and the recovery of engine parts of the moped and some clothes would not be sufficient to establish the guilt of the accused. There are various missing links leaving much to be answered on the part of the prosecution as regards the alleged guilt of the accused.



25. Having regard to the frail evidence in the present case, it is certainly unsafe to base conviction on the same. The findings of the trial Court holding the appellants guilty for having committed offence under Sections 302, 201 read with 34 IPC cannot sustain and deserve to be set aside. The appeals merit acceptance and are hereby accepted and while setting aside the impugned judgment dated 10.01.2005 and order of even date, the appellants are acquitted of all the charges framed against them.
26. A photocopy of this order be placed on the connected case.

**(GURVINDER SINGH GILL)
JUDGE**

**(JASJIT SINGH BEDI)
JUDGE**

15.02.2025

Mohan

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No