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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision : 21.07.2025

Rajwinder Singh Dhaliwal

... Applicant/Appellant

Versus

State of Punjab and another

... Respondent

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

Present:- Mr. Rohit Dheer, Advocate, for the applicant-appellant.

H.S. Grewal, J.

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1. This application has been filed under Section 5 of the Limitation Act read with Section 378(4) Cr.P.C. seeking condonation of delay of 276 days in preferring the application under Section 419 of BNSS, 2023 [erstwhile Section 378 Cr.P.C] seeking leave to appeal against acquittal of respondent No.2.
2. Learned counsel for the applicant submits that the applicant was under the impression that the State of Punjab will file an appeal against the impugned order of acquittal but no such appeal was filed and therefore, the delay has occurred which is neither intentional nor *malafide* on the part of the applicant.
3. Heard.



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4. For the reasons mentioned in the application, the same is allowed and delay of 276 days in preferring the application seeking leave to appeal against the acquittal of the accused-respondent No.2 is, hereby, condoned.

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1. This application is filed under Section 419 of the Bhartiya Nagrik Suraksha Sanhita, 2023 by applicant-appellant-Rajwinder Singh Dhaliwal, who is the complainant in the FIR, and has approached this Court seeking leave to appeal against the acquittal of Manpreet Singh @ Manni, who has been accused of the murder of one Chhinder Kaur, against the impugned judgment/order dated 30.05.2024 passed by the learned Sessions Judge, Moga in sessions case No.SC/208/2022, titled as 'State of Punjab vs. Manpreet Singh' arising out of FIR No.50 dated 11.06.2022 under Section 302 read with Section 34 of the IPC, registered at Police Station Ajitwal, District Moga.

2. Learned counsel for the applicant submits that the judgment of acquittal of accused-respondent No.2 is a grave miscarriage of justice and is liable to be set aside as there is sufficient material on record to prove the case of the prosecution that respondent No.2 is responsible for the brutal and merciless murder of Chhinder Kaur, who was a senior citizen. He also submits that the complainant is the son-in-law of the deceased-widow Chhinder Kaur.

3. We have heard the learned counsel for the applicant and have perused the material on record.

4. The case of the prosecution is that on 11.06.2022, on a telephonic information, the police party reached Village Jhandeana Sharki, where the dead body of Chhinder Kaur wife of Jeet Singh was lying in the lobby of her house in a decomposed condition and emitting foul smell. Then, the appellant along



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with other respectables of the village met SHO Beant Singh and other police officials and got recorded his statement under Section 173 Cr.P.C. to the effect that his marriage was performed with Kamaljit Kaur, daughter of Jeet Singh and deceased Chhinder Kaur, in the year 2005. His brother-in-law Manjinder Singh is living in Canada for the last 10-12 years along with his family. His father-in-law Jeet Singh was employed with Electricity Department and he died about 38 years ago due to electric shock. His mother-in-law, deceased Chhinder Kaur, was employed by the Punjab State Electricity Board on compassionate grounds and she had retired from service in the year 2018 and thereafter, she was living alone in her house in village Jhandeana Sharki. On 10.06.2022, his wife Kamaljit Kaur made many phone calls to her mother (deceased) on her mobile but she did not attend the calls. When no reply was received, then his wife Kamaljit Kaur made mobile call to her cousin Harwinder Singh @ Soni and requested him to make arrangement for having telephonic conversation with her mother as she was not attending her phone calls. But her cousin informed that he had come to Moga for some work and would arrange their phone call whenever he returned back home. Thereafter, on the next date i.e. 11.06.2022, said Harwinder Singh telephonically informed Kamaljit Kaur that the dead body of her mother was lying on the floor of the lobby of the house in decomposed condition, emitting foul smell and it seems that she died some days back. Then, Kamaljit Kaur wife of the complainant asked said Harwinder Singh to remain at the spot. Upon this, she called the complainant who was at Ludhiana at that time and informed him about the death of her mother. Thereafter, the complainant and his wife, at about 1:00 p.m., reached the house of the deceased Chhinder Kaur. Then after entering the



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house, they noticed that dead body of Chhinder Kaur was lying on the floor of the lobby of the house, emitting foul smell and it appears that she had been murdered by some unknown persons by strangulating her with the help of a piece of cloth of yellow colour. Complainant-applicant Rajwinder Singh Dhaliwal along with Iqbal Singh, after leaving his wife and her cousin Harwinder Singh near the dead body, went to Police Station to report the matter but the police party met him on the way and got recorded his statement.

5. During Investigation, blood stained earth and two mobile phones were recovered near the dead body which were taken into possession by the police. The dead body was sent to Civil Hospital, Moga for conducting post mortem examination and thereafter it was handed over to her legal heirs. ASI Jagsir Singh, in the presence of SHO Beant Singh prepared the parcel of wearing apparels of deceased and sealed them with the impression 'BS'. One sim of the mobiles recovered near the dead body, was found to be registered in the name of one Tirath Singh son of Jagsir Singh, resident of the same village and thereafter, the said Tirath Singh was arrested in this case. Upon interrogation of said Tirath Singh, name of the present accused Manpreet Singh @ Mani son of Gurbaksh Singh resident of same village, surfaced and he was nominated as an accused in this case and offence under Section 34 of the IPC was added on 19.06.2022. Thereafter, on 20.06.2022, Manpreet Singh @ Mani was arrested and during interrogation, he suffered a disclosure statement stating that he had committed the murder of Chhinder Kaur and after that he took away cash amount of Rs.5000/- from her purse. Out of this amount, a sum of Rs.3,000/- had already been used by him for purchasing intoxicants and remaining Rs.2,000/- had been kept concealed by him in a Trunk in the



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Chaubara of his house and he could get the same recovered. After recording his statement, Rs.2,000/- was recovered from the place described by him. Apart from this, on his personal search, Rs.50/- was also recovered and the amount was taken into possession. The statements of witnesses under Section 161 Cr.P.C. were recorded and after completion of investigation at the spot, accused Manpreet Singh was lodged in police lock up. Thereafter, on 23.06.2022, on minute investigation of the case, it surfaced that on the intervening night of 06/07.06.2022, accused Manpreet Singh @ Mani entered into the house of Tirath Singh and had stolen his mobile phone which was kept on the air cooler. Upon this, Tirath Singh raised hue and cry and people gathered there and went to trace the said mobile handset. Later on, it came to be known that the deceased Chhinder Kaur woke up and an altercation took place between Manpreet Singh @ Mani and Chhinder Kaur as she had seen accused-Manpreet Singh @ Mani while he was stealing her mobile handset. Then, accused Manpreet Singh @ Mani picked up an iron pot and gave 2-3 blows on the head of Chhinder Kaur, as a result of which she fell on the ground and thereafter, accused Manpreet Singh @ Mani strangulated her with the help of his *parna* of yellow colour and committed her murder by covering her mouth with the help of a pillow. After commission of murder, he left the stolen mobile handset of Tirath Singh near the body of the deceased and stole Rs.5,000/- from the purse of the deceased. During investigation, Tirath Singh was found innocent and challan was filed against the sole accused Manpreet Singh @ Mani.



6. To prove its case, the prosecution had examined the complainant-applicant-Rajwinder Singh Dhaliwal as PW-1, who had supported and described the case of the prosecution.

7. Dr.Chinar, Medical Officer, Civil Hospital, Moga was examined as PW-2 and she had deposed that she had conducted post-mortem of the body of Chhinder Kaur and proved the cause of death as well as the probable time between death and post-mortem examination which was about 5-6 days.

8. The prosecution had also examined Tirath Singh as PW-3, who deposed that on intervening night of 06/07.06.2022, Manpreet Singh @ Mani who was well known to him entered his house and picked up his mobile handset and he had seen the accused doing this as he had not slept by that time. He further deposed that the accused/respondent-Manpreet Singh @ Mani, after snatching the mobile handset, fled from the house and he followed him. However, accused-Manpreet Singh @ Mani had managed to escape under the cover of darkness, later he had left his mobile handset at the house of Chhinder Kaur while committing her murder with an intention to implicate Tirath Singh in the murder case.

9. The prosecution also examined Fateh Singh as PW-4, who supported the case of Tirath Singh and had stated that he had seen Tirath Singh, his neighbour, running after a man and saying that accused-Manpreet Singh @ Mani had stolen his mobile and he was chasing him.

10. In order to prove its case, the prosecution examined Amarjit Kaur, Member Panchayat as PW-5 who had not supported the case of the prosecution and later turned hostile. ASI Jagsir Singh was examined as PW-6, who deposed that he received telephonic information regarding the incident and he along



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with the police party reached the residence of the deceased and he had supported and described the case of the prosecution as per his investigation. He had also deposed regarding the arrest of the accused, alleged disclosure and recovery of amount from the accused.

11. The prosecution had further examined Inspector Beant Singh as PW-7, who was posted as SHO of the Police Station, Ajitwal and ASI Gurdev Singh as PW-8 who had also corroborated the statement of PW-6 ASI Jagsir Singh and gathered the link evidence regarding the recoveries of parcels, sealing them as well as sending the same for forensic examination. ASI-Sandeep Singh was examined as PW-9, who had deposed through affidavit regarding depositing of case property to the Forensic Science Laboratory with seals intact.

12. Harwinder Singh @ Harvarinder Singh was examined as PW-10. He was the witness who informed his cousin Kamaljit Kaur regarding the death of Chhinder Kaur. Prosecution had also examined Kamaljit Kaur as PW-12. Both these witnesses had also supported the case of the prosecution. Jagbir Singh, Nodal Officer, Reliance Jio Info.Com Ltd. was examined as PW-13, who proved that the sim card in the mobile handset recovered near the body of the deceased was registered in the name of Tirath Singh. Head Constable Nirmal Singh was examined as PW-14, who was posted as Malkhana Munshi and had deposed regarding deposit of an iron pot (*Gamla*) and two mobile handsets in the Malkhana after sealing the same. Prosecution had also examined PW-15 ASI Fally Singh, Sr. Constable Jagmohan Singh as PW-16 and Dr.Shilp Mittal, Assistant Professor Pathology, Adesh Medical College,



Bucho, Bathinda as PW-16, in order to gather the link evidence supporting the case of the prosecution.

13. After closure of the prosecution evidence, the statement of the accused/respondent under Section 313 Cr.P.C. was recorded wherein he denied the allegations levelled against him by the prosecution and pleaded his innocence. He had specifically deposed that he had been falsely implicated in this case in connivance with Iqbal Singh Sarpanch, Harwinder Singh and Tirath Singh (previously nominated as accused) of village Jhandeana Sharki. He also deposed that the prosecution had framed a concocted story regarding stealing of mobile phone of Tirath Singh.

14. From the statements, it transpires that the mobile phone belonging to Tirath Singh was allegedly stolen earlier by the accused, Manpreet Singh @ Mani, and was later found near the deceased's body. It is a case of blind murder with no eyewitnesses. The manner in which the death occurred, by hitting on the head with a flower pot, strangulation with a parna, and having a pillow pressed over her mouth, is solely based on the accused's own disclosure statement made in the custody.

15. The dead body was found 4-5 days after the actual incident. No forensic evidence or fingerprints were collected or relied upon by the prosecution to prove that Manpreet Singh @ Mani was present at the scene of the crime. Further, the histopathology and chemical examiner's reports did not give any clear findings, and the medical expert only stated that the "cause of death could be due to a head injury, which could not be ruled out". Therefore, the claim of strangulation is not supported by conclusive medical evidence and



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is based only on the accused's disclosure statement. Although PW-3-Tirath Singh and PW-4-Fateh Singh spoke about the theft of Tirath Singh's mobile phone but Tirath Singh never filed any complaint regarding theft with the police. As far as the recovery of Rs. 2000/- is concerned, we find that this alone is not enough to directly link the accused to the crime in question.

16 After considering the evidence, this Court finds several issues that raise doubts about the prosecution's case. Firstly, the theft of PW-3-Tirath Singh's mobile phone was never officially reported to the police. Secondly, the main evidence against the accused is his own disclosure about how the death occurred, including strangulation, which was not confirmed by medical evidence. Thirdly, the recovery of Rs. 2,000 from the accused could not be clearly linked to the deceased, as there was no proof that she had any money with her. The medical evidence also does not clearly confirm the cause of death. While there was an injury on the head, no skull fracture was found, and the doctor only observed that "*death was due to head injury which could not be ruled out*". These facts create reasonable doubt in the prosecution's version of events.

17. Therefore, we do not find any infirmity or illegality in the order/judgment of acquittal passed by the learned Appellate Court acquitting accused-respondent No.2 for the offence punishable under Sections 302/34 IPC and, therefore, the application seeking leave to appeal is, hereby, dismissed.

(MANJARI NEHRU KAUL)
JUDGE

(H.S.GREWAL)
JUDGE

July 21, 2025

poonam

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