

CRA-D-409-DB-2004 (O & M)

2025:PHHC:047060-DB



::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(103)

CRA-D-409-DB-2004 (O & M)

Reserved on: 02.04.2025

Date of Pronouncement: 05.04.2025

Gurdeep Singh

.... Appellant

V/s

State of Punjab

...Respondent

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

Present: Mr. Sonpreet Singh Brar, Advocate, as Amicus Curiae
for the appellant.

Mr. Siddharth Attri, AAG, Punjab.

JASJIT SINGH BEDI, J.

The present appeal has been filed against the judgment of conviction and order of sentence dated 10.01.2004 passed by the Sessions Judge, Bathinda.

2. The instant FIR came to be registered on 31.08.2001. The accused-appellant came to be convicted vide judgment of conviction and order of sentence dated 10.01.2004. The present appeal against the judgment



of conviction and order of sentence was filed on 28.04.2004. The matter has come up for final hearing now after 24 years of the registration of the FIR.

3. The brief facts of the case are that on 31.08.2001, Jarnail Singh Inspector/Station House Officer of Police Station, Balianwali in the company of A.S.I. Jugraj Singh and other Police in the officials was present at Bus stop of Village Nandgarh Kotra. Binder Singh son of Gurdev Singh, resident Village Nandgarh Kotra came to him and made statement (Exh. PH) to the effect that his younger brother was Gurmeet Singh. There used to be *Thikri Pehra* (keeping vigil over public places) in the village. It was the turn of his brother Gurmeet Singh for performing the *Thikri Pehra* on the night of 31.08.2001. After taking dinner, Gurmeet Singh went for this purpose towards a common place of the village i.e. *Khue Wali Sath*. He (Binder Singh) also followed him as he was to go for having a round of his field. It was about 10.00 p.m. when they reached in the common place of the village, Nanak Singh and Makhan Singh, who were deployed for performing Vigil (*Pehra*) were also there. A cousin of Binder Singh, namely, Balwinder Singh and accused-Gurdeep Singh armed with *Gandasa* were also standing in the common place. When Gurmeet Singh came in the common place, Gurdeep Singh challenged him (Gurmeet Singh) that he would teach him a lesson for visiting his house. Thereafter, he gave a *gandasa* blow from the sharp side on the right side of his Chin. Gurmeet Singh fell down. He gave three other *gandasa* blows from the reverse side on him, which landed on his forehead,



eyes, nose and mouth. Binder Singh and others raised a hue and cry. Thereafter, Gurdeep Singh fled away from the spot waving the *gandasa*, which was with him. Balwinder Singh and Binder Singh came near Gurmeet Singh. He had succumbed to the injuries. The motive was that Gurdeep Singh had a doubt that Gurmeet Singh had illicit relations with his wife Sarabjit Kaur. The occurrence was witnessed in the moon lit night and electric light. Binder Singh laid suspicion upon accused Bansi and another person in the conspiracy for the murder of his brother. Balwinder Singh was left to look after the dead body and Binder Singh was going to lodge the report when he came across Jarnail Singh Inspector. After concluding statement (Ex. PH) of Binder Singh. Jarnail Singh made endorsement (Exh. PH/1) on it at 10.45 p.m. and sent the same to the police station, Balianwali, on the basis of which F.I.R. (Exh.PH/2) was registered.

Investigation was taken up by Jarnail Singh. He went to the place of occurrence and prepared inquest report (Exh.PE). Application Exh. PD was addressed to the Doctor for conducting post-mortem examination of the dead body of Gurmeet Singh. H.C. Joginder Singh and P.H.G. Balwinder Singh were deputed for this purpose. The place of occurrence was inspected. Blood was lifted from the ground and it was put in a plastic container, which was converted into a parcel and was sealed with seal bearing letters J.S. The parcel was taken into police possession vide recovery memo (Exh.PL) attested by Jugraj Singh A.S.I. and Jagsir Singh. One stick



(Soti) was taken into police possession vide recovery memo (Exh.PM). Jarnail Singh prepared rough site plan (Exh.PN) and recorded the statements of the witnesses. On 03.09.2001, accused-Harbans Singh alias Bansi was produced by Sukhdev Singh Ex-member Panchayat of Village Balianwali before the Investigating Officer. He was arrested. Statement of Sukhdev Singh Ex-Member Panchayat son of Mukand Singh was recorded, who disclosed that Bansi had made an extra judicial confession before him to the effect that Gurmeet Singh was having an evil eye upon their women folk when they used to be away for work and was visiting their houses and on that account, they felt insulted and that Gurdeep Singh in conspiracy with Pappi committed the murder of Gurmeet Singh in the common place known as *Khue Wali Sath*. On 04.09.2001, Gurdev Singh was associated with the party. The house of accused Gurdeep Singh was raided. He was found present there and was arrested. He was interrogated. He disclosed that he had kept concealed one *gandasa* and his clothes, i.e. shirt and *pyjama* in the right side of the room in his residential house behind the iron box, of which he alone was aware and could get them recovered. His statement (Exh.PO) was recorded, which was signed by him and attested by Gurdev Singh and H.C. Joginder Singh. Thereafter, Gurdeep Singh got effected recovery of the *gandasa* (Exh. P-1), shirt (Exh.P-3) and *pyjama* (Exh.P-4) in pursuance of his disclosure statement. Rough sketch (Exh.PP) of the blade of the *gandasa* was prepared. Parcel of the *gandasa* was prepared, which was sealed with

CRA-D-409-DB-2004 (O & M)

2025:PHHC:047060-DB



::5::

seal bearing letters J.S. parcel of the clothes was also prepared, which was sealed. These parcels were taken into police possession vide recovery memo (Exh.PQ) attested by Gurdev Singh and H.C. Joginder Singh. The investigating Officer prepared rough site plan (Exh.PR) of the place of this recovery. H.C. Joginder Singh produced the clothes of the deceased before Jarnail Singh after getting the dead body subjected to post-mortem examination. They were taken into police possession vide recovery memo (Exh.PS). On 07.09.2001, accused Balbir Singh alias Pappi was produced by Sukhdev Singh Ex-Sarpanch son of Pritam Singh before the Investigating Officer. He was arrested. Statement of Sukhdev Singh was recorded, who stated that Balbir Singh alias Pappi had made an extra-judicial confession before him to the effect that when they used to be away for work Gurmeet Singh was keeping an evil eye on their women-folk and daughters and was visiting their houses and that they felt insulted and that with his conspiracy and the conspiracy of Bansi, Gurdeep Singh committed his murder in the common place known as *Khue Wali Sath* on 31.08.2001. Makhan Singh produced Note Book (Exh. P-2) before the Investigating Officer, which was taken into police possession vide recovery memo (Exh.PF). Case property was deposited by Jarnail Singh with M.H.C. Bhupinderjit Singh. After completion of the investigation, report under Section 173 of the Code of Criminal Procedure was submitted in the Court.



4. On commitment, charge under Section 120-B of the Indian Penal Code against all the accused, under Section 302 of the Indian Penal Code against Gurdeep Singh and under Section 302 read with Section 120-B of the Indian Penal Code against Balbir Singh alias Pappi and Harbans Singh alias Bansi was framed, to which they pleaded not guilty and claimed trial.

5. To prove its case, prosecution examined as many as 13 witnesses. The gist of their statements are as under:-

P.W.1-Krishan Kumar is the Clerk of the office of Deputy Commissioner, Bathinda. He brought the order passed by the Deputy Commissioner, Bathinda 27.03.2001 regarding keeping vigil on public places (*Thikri Pehra*) and the same is Exh.PA.

P.W.2-Amarjit Singh Draftsman visited the place of occurrence and prepared Map to scale Exh.PB.

PW-3 Dr. Dalip Singh conducted the post-mortem examination of the dead body of Gurmeet Singh on 01.09.2001 at about 9.00 a.m. and the following injuries were noted by him:-

1) An incised wound present on the right side of the lower jaw measuring 2.3 inches about in its middle. Horizontally placed half inch lateral to the chin anteriorly and 3/4 of an inch anterior to posterior border of Lower jaw, posteriorly. On dissection, underline wound fractured. All blood muscles and vessels were cut.

(2) A lacerated wound 1.5 inches over present on the upper Jaw and maxillary region on the right side of the nose. On



dissection, underline maxillary bone fractured. Blood present in the maxillary sinus.

(3) An Incised wound present on the bridge of the nose extending laterally on both sides cutting both the eye balls measuring about 3 inches. Underline nasal bone cut. On dissection, there was a big haematoma present subdurally.

(4) A lacerated wound present on the right frontal bone lateral to the mide measuring 1.2 inches XI inch depressed. On dissection underline bone depressed fractured. On further dissection, there was big haematoma present both extra and subdurally.

All the injuries were ante-mortem in nature and were sufficient to cause death in the ordinary course of nature. This witness opined that death was due to shock and haemorrhage on account of injuries No.1 to 4. Probable time that elapsed between the injuries and death was immediate and between death and post-mortem within 24 hours. Exh.PC is the carbon copy of the post-mortem report and Exh. PC/1 is the pictorial diagram showing the seat of injuries. Post-mortem examination was conducted on the basis of the police request Exh.PD. Dr. Dalip Singh opined that injuries No.1 and 3 could be the result of blows with *gandasa* Exh.P-1 from the sharp side and remaining injuries with its blunt side.

P.W.4-Makhan Singh son of Kaur Singh stated that Sudagar Singh was the Chowkidar of the Village Nandgarh Kotra. Under the orders of the police officials, some residents of the village were deputed for vigil at



public places (*Thikri Pehra*) in the village. The chowkidar used to deploy them. Since he was illiterate, this witness was maintaining the duty book. Duty Book Exh.P-2 was produced by this witness before the police and it was taken into police possession vide recovery memo Exh.PF. Makhan Singh further stated that on 31.08.2001, Gurmeet Singh, Bhana Singh, Makhan Singh and Nanak Singh were deputed for *Thikri Pehra*. Relevant entry in the duty book in this regard is Exh.P-2/A.

P.W.5-H.C. Bhupinderjit Singh is a formal witness, who proved his affidavit Exh.PG.

P.W.6-Binder Singh is the complainant, who proved his statement Exh.PH made before Jarnail Singh, Station House Officer. He reiterated his version in it, as has been narrated above. He further stated that murder of his brother was committed by Gurdeep Singh in conspiracy with Harbans Singh alias Bansi and Balbir Singh alias Pappi. It is further in his statement that he was feeling perplexed and had wrongly described one injury on the person of his brother from the reverse side of the *gandasa* instead of from the sharp side.

P.W.7-Balwinder Singh stated that he was coming from his field and that when he had reached in the common place of the village, he had found Nanak Singh and Makhan Singh there, who were performing *Thikri Pehra*. Accused-Gurdeep Singh was also standing there armed with a *gandasa*. Gurmeet Singh, who was to perform *Thikri Pehra* came there. His



brother Binder Singh was following him. Gurdeep Singh raised a *Lalkara* saying that he would teach a lesson to Gurmeet Singh for having illicit relations with their ladies. He further deposed that Gurdeep Singh gave a *gandasa* from the sharp side on the chin of Gurmeet Singh, who fell down. Thereafter, Gurdeep Singh gave three more *gandasa* blows, two with the reverse side, which fell on his (Gurmeet Singh's) right cheek and fore-head and another blow with the sharp side which landed on his eyes and nose. Gurmeet Singh had died then and there. He and Joginder Singh remained at the place of occurrence to look after the dead body and Binder Singh went to lodge the report with the police.

P.W.8-Constable Sukhwinder Singh and P.W.9-H.C. Amrik Singh proved their affidavits Exh.PJ and Exh.PK respectively.

P.W.-10 Jarnail Singh is the Investigating Officer of this case. He proved the Investigation part of the prosecution version.

P.W.11-Sukhdev Singh son of Mukand Singh stated that on 03.09.2001, accused Bansi Singh had come to his house in the morning whom he had known for the last 5-6 years, as he was doing labour with him. Bansi Singh told him that whenever they used to go for work Gurmeet Singh was having an evil eye on their ladies and that with his conspiracy and the conspiracy of Pappi, Gurmeet Singh was murdered by Gurdeep Singh on the night of Friday in the common place of the Village known as *Khue Wali Sath* of Village Nandgarh Kotra. It is further in the statement of this witness that

CRA-D-409-DB-2004 (O & M)

2025:PHHC:047060-DB



::10::

accused-Bansi was produced before the police by him and his personal search was conducted. Nothing was recovered from him and memo Exh.PT was prepared.

P.W.12-Rajinder Kumar is the Sub Station Attendant of Punjab State Electricity Board, Maur Mandi. He brought the summoned record and stated on that 31.08.2001 electric supply was available in village Nandgarh Kotra at 10.00 p.m.

P.W.13-Sukhdev Singh son of Pritam Singh is a witness who stated that accused Balbir Singh alias Pappi had come to him on 07.09.2001 in his house and had made an extra judicial confession to the effect that Gurmeet Singh was having an evil eye on their women folk and daughters and in their absence when they used to be in the fields he would visit their houses frequently. He further stated that Gurdeep Singh had murdered Gurmeet Singh with his conspiracy and the conspiracy of Bansi on 31.08.2001 in the common place of the village. This witness further stated that accused Balbir Singh was produced by him before the police on the same day at Bus stop of Village Nandgarh Kotra. His personal search was conducted. Nothing was recovered from him. Memo Exh.PU was prepared.

The Public Prosecutor tendered in evidence report of the Forensic Science Laboratory Exh. PV.

6. On conclusion of the prosecution evidence, the accused were examined under Section 313 of the Code Criminal Procedure and all the



incriminating circumstances, which appeared against them in evidence were put to them. They denied the same. Plea of accused Balbir Singh alias Pappi was that he was innocent. He belonged to the Mazbi Sikh community. His locality, in which he is residing is at a sufficient distance from the house of Gurdeep Singh. Sukhdev Singh/PW-13 son of Pritam Singh is related to Gurmeet Singh deceased, as they originally belonged to village Mandi Kalan. P.W.13 was a candidate for Sarpanchship and he had opposed him in the election. On this account, he has been falsely implicated.

The stand of accused-Gurdeep Singh was that witnesses were interested and related. He had been involved in the case after concocting a false story after due deliberations and consultations after the dead body of Gurmeet Singh was found lying in the common place of the village at night time. He was arrested on 01.09.2001. After illegally detaining him a false recovery had been shown from him.

Accused Harbans Singh alias Bansi pleaded innocence. His version was that he belonged to the Mazbi Sikh community and his locality, in which he was living, was at a sufficient distance from the house of Gurdeep Singh. Sukhdev Singh/P.W.11 son of Mukand Singh was related to Gurmeet Singh, as they belong to village Mandi Kalan. He had a dispute with Sukhdev Singh/P.W.11 regarding his wages for the work done by him with him. He had been falsely implicated in this case.



7. Based on the evidence led, while acquitting the co-accused, namely, Harbans Singh alias Bansi and Balbir Singh alias Pappi, the accused-appellant/Gurdeep Singh came to be convicted and sentenced by the Court of the Sessions Judge, Bathinda vide judgment of conviction and order of sentence dated 10.01.2004 as under:-

Offence U/S	Sentence	Fine	In default of payment of fine
302 IPC	Imprisonment for Life	Rs.1,000/-	RI 03 months

8. The aforementioned judgment of conviction and order of sentence dated 10.01.2004 passed by the Sessions Judge, Bathinda is under challenge before this Court.

9. During the pendency of this appeal, the sentence of the accused-appellant, namely, Gurdeep Singh was suspended by this Court vide order dated 21.08.2007.

10. The learned Amicus Curiae for the accused-appellant contends that there is a significant delay in the registration of the FIR which creates a doubt in the entire prosecution case. Complainant-Binder Singh/PW-6 and Balwinder Singh/PW-7 are interested witnesses being the brother and the cousin of the deceased respectively. Their presence at the spot is doubtful. They did not make any attempt to catch hold of the accused while he was committing the offence. Their clothes were also not blood-stained belying their presence at the spot. Makhan Singh and Nanak Singh two witnesses



who were stated to have been present at the spot have not been examined as prosecution witnesses. He, thus, contends that the impugned judgment was liable to be set aside and the accused be acquitted of the offence in question.

11. The learned counsel for the State, on the other hand, contends that the statements of the complainant/Binder Singh/PW-6 and those of Balwinder Singh/PW-7 are clear and categoric as to the manner in which the occurrence took place. Mere relationship with the deceased is not a ground to discredit their version because it does not stand to reason that they would falsely implicate the accused and let go of the actual assailant. Witnesses react differently and therefore, merely because no attempt was made by them to catch hold of the accused while he was assaulting the deceased would not be a ground to disbelieve their testimony. In fact, the medical evidence is totally in consonance with the ocular account. Recovery of the weapon of offence and the blood-stained clothes have been effected from the accused. He, thus, contends that the present appeal was liable to be dismissed.

12. We have heard the learned counsel for the parties and examined the record.

13. The occurrence in this case had taken place at about 10.00 p.m. on 31.08.2001. Binder Singh/P.W.6 reported the matter to the police at Bus stop of village Nandgarh Kotra on that day. His statement Exh.PH was recorded. Thereafter, Jarnail Singh/P.W.10 made endorsement Exh.PH/1 on



this statement and concluded the same at 10.45 p.m. on 31.08.2001. Then he sent the same to the Police Station for registration of the case and the case for registered at 11.45 p.m. vide D.D.R.No. 20. Special report was sent through constable Sukhwinder Singh, whose affidavit is Exh.PJ, for delivering it to the Area Magistrate at Phul. Sukhwinder Singh has appeared as P.W.8. It is evident from his statement that Area Magistrate at Phul was on leave and he came to the residence of Shri Avtar Singh, Judicial Magistrate at Bathinda for handing over the special report to him. Bathinda is at a distance of 30 Kilometers from Phul as deposed by P.W.8/Constable Sukhwinder Singh. Moreover, he has explained that there remains traffic on the road all the time. In such a situation, it cannot be concluded that delay in handing over the special report to the Magistrate at 7.00 a.m. on 01.09.2001 is unexplained or that it creates any doubt in the prosecution case. In fact, the F.I.R. has been promptly recorded and shows that the story put forward by the prosecution witnesses i.e. P.W.6-Binder Singh and P.W.7-Balwinder Singh cannot be doubted.

14. So far as Makhan Singh and Nanak Singh, the other eye-witnesses to the occurrence are concerned, they have been given up by the prosecution as having been won over by the accused on the basis of the request made by the police. It is not the quantity, but the quality of the witnesses, which is material. No material infirmity in the statements of P.W.6/Binder Singh and P.W.7/Balwinder Singh has been pointed out. They



have fully supported prosecution story regarding inflicting of the injuries by accused-Gurdeep Singh to Gurmeet Singh with a *gandasa* in the common place of the village known as *Khue Wali Sath*. The ocular version gets corroboration from the medical evidence i.e. statement of P.W. 3/Dr. Dalip Singh, who found four injuries on the person of deceased-Gurmeet Singh as have been disclosed by P.W. 6/Binder Singh and P.W.7/Balwinder Singh. The Doctor has opined that injuries No.1 and 3 could be the result of blows with *gandasa* Exh.P-1 from the sharp side and the remaining injuries with the blows with it from the blunt side. These witnesses had no prior enmity with the accused Gurdeep Singh to implicate him falsely. Apart from this Gurdeep Singh got recovered his blood stained clothes and *gandasa* by way of suffering of a disclosure statement, which further corroborates the ocular version, as the shirt, *pyjamas* and *gandasa* were found to be stained with human blood as per the report Exh.PV received from the Forensic Science Laboratory, Chandigarh. The statements of P.W.6/Binder Singh and P.W.7/Balwinder Singh are of worthy of credit. Makhan Singh and Nanak Singh have been given up by the prosecution for justifiable reasons of having been won over by the accused. Their non-examination does not make the prosecution version doubtful. Further, the testimony of PW-6/Binder Singh and PW-7/Balwinder Singh cannot be discarded only on the ground that they happen to be the relations of the deceased. Since the statement of P.W.6/Binder Singh and P.W.7/Balwinder Singh are cogent, convincing and



reliable, the fact that they are related to the deceased would assume little significance.

15. Further, merely because Binder Singh/PW-6, Balwinder Singh/PW-7 and others did not make any effort to catch hold of Gurdeep Singh-accused, when he inflicted injuries to Gurmeet Singh, cannot be a ground to doubt their testimonies. Accused-Gurdeep Singh was armed with a *gandasa*. He after challenging Gurmeet Singh opened an attack on him and inflicted four injuries on him. The incident took place within a few seconds. Had PW-6/Binder Singh and PW-7/Balwinder Singh tried to intervene, the accused could have caused injuries to them as he was armed with lethal weapon, i.e. *gandasa*. Their conduct on this score cannot be condemned, nor is it un-natural. Apart from this individual reactions can vary from person to person. They could visualize danger to their life and limb if they had intervened. Self-preservation being a natural instinct, mere non-interference itself cannot create a doubt in the prosecution case regarding the presence of these prosecution witnesses.

16. In view of the aforementioned discussion, we find that the offence stands established beyond doubt and therefore, finding no merit in the present appeal, the same stands dismissed. The accused-appellant/Gurdeep Singh is directed to surrender before the Jail Authorities concerned forthwith to serve out his remaining sentence.

CRA-D-409-DB-2004 (O & M)

2025:PHHC:047060-DB



::17::

17. The pending applications, if any, stands disposed of accordingly.

**(GURVINDER SINGH GILL)
JUDGE**

05.04.2025
sukhpreet

**(JASJIT SINGH BEDI)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No