

**CRA-D-200-DB-2014 (O&M)**

2025:PHHC:067171-DB



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

**CRA-D-200-DB-2014 (O&M)  
Date of Decision: May 03, 2025**

**Naresh Kumar**

.....Appellant

**Versus**

**State of Punjab**

..... Respondent

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL  
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Brijesh Nandan, Advocate for appellant.

Mr. Dhruv Dayal, Addl. AG, Punjab.

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**LISA GILL, J.**

1. Appellant, Naresh Kumar son of Dev Sharan has filed this appeal challenging judgment dated 09.11.2012 passed by learned Sessions Judge, Jalandhar whereby he has been convicted for the offences punishable under Section 364A, 302, 201, 376 of Indian Penal Code (for short – 'IPC') and order of even date, whereby he has been sentenced as under:-

Offence u/s	Sentence
364A IPC	Imprisonment for life and fine of Rs.1,000/-. In default of payment of fine, to undergo rigorous imprisonment for one year.
302 IPC	Imprisonment for life and fine of Rs.1,000/-. In default of payment of fine, to undergo rigorous imprisonment for one year.
201 IPC	Rigorous imprisonment for five years and fine of Rs.1,000/-. In default of payment of fine, to undergo rigorous imprisonment for six months.

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376 IPC	Rigorous imprisonment for ten years and fine of Rs.1,000/-. In default of payment of fine, to undergo rigorous imprisonment for one year.
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2. Brief facts as per prosecution version are that police party headed by SI Sham Lal PW13 alongwith his police team of Police Station Adampur on patrol duty and checking of suspects on 21.11.2011 was present at Bus stand Adampur. Complainant Jasveer Singh PW1 approached police officials and recorded his statement, Ex.PA, before SI Sham Lal on 5.45 p.m at Bus stand, Adampur to the effect that he was serving as Mechanical Engineer in Ghana in South Africa for the last five years and he has one son Gurwinder Singh and a daughter Bhupinder Kaur. He further stated that on 20.11.2011, his wife Jaswinder Kaur went to fetch milk from the dairy of Kamalvir Singh son of Raghbir Singh as usual but she did not return home. Gurwinder Singh son of the complainant received a call on his cell phone No. 8699157216 from present appellant – Naresh Kumar from his cell phone No. 8146409842 to the effect that Jaswinder Kaur had been abducted by him. Appellant demanded a sum of Rs.50 lakhs as ransom for her release. He threatened to eliminate her in case ransom amount of Rs.50 lakhs was not given to him. Complainant, thus, stated that he had full reason to believe that his wife had been abducted by appellant or at his behest. He, thus, prayed for legal action to be taken. SI Sham Lal carried out his endorsement on statement and sent it to Police Station, Adampur for registration of FIR. FIR Ex.PW3/D was registered under Sections 364, 302 and 201 IPC.

3. Appellant - Naresh Kumar was arrested on 22.11.2011. A gold earring and one mobile set were recovered from appellant at the time of his

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personal search. Earring was identified by Jasveer Singh, complainant, to be of his wife Jaswinder Kaur. Earring alongwith mobile set were taken in custody vide separate parcels duly sealed and attested by complainant Jasveer Singh and HC Gurmit Singh. Disclosure statement Ex.PW11/C was suffered by appellant on 22.11.2011 to the effect that he had concealed dead body of Jaswinder Kaur in a heap of cattle dung in the field taken on rent by Kamalvir Singh. Pursuant thereto, appellant led the police party to the disclosed place and got recovered dead body of Jaswinder Kaur in the presence of Executive Magistrate Karandeep Singh Bhullar who had been joined in the proceedings. Dead body was taken in police possession vide recovery memo, Ex.PD. Inquest report, Ex.PE, was prepared and statement of witnesses in connection thereof recorded. Rough site plan Ex.PW13/C of the place of recovery of dead body of Jaswinder Kaur was prepared. Investigating Officer also took in police possession piece of dung at the spot vide separate recovery memo.

4. Dead body was sent for Post Mortem examination to Civil Hospital, Jalandhar through Head Constable David Masih and PHG Naranjan Pal. Offences punishable under Sections 302 and 201 IPC were added in the FIR. After Post Mortem examination, piece of green coloured rope was produced by HC David Masih which was statedly tied around dead body of Jaswinder Kaur alongwith one iron bangle, same was taken in police possession. On 24.11.2011, pursuant to his disclosure statement, appellant also got recovered red coloured jumper (shirt), white coloured vest belonging to the deceased besides a steel container for carrying milk and one containing one small gold earring of the deceased. Name of Jaswinder Kaur was engraved in Punjabi on one side of steel container. Earring and steel container

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were identified by complainant to be of Jaswinder Kaur. Same were taken in police custody vide memo, Ex.PC. Cart on which dead body of Jaswinder Kaur was taken to be buried in the heap of animal dung was also taken in police possession. Call detail records of cell phone in question were collected by Investigating Officer from the concerned Telecom companies. Scaled site plan of place of occurrence Ex.PK was prepared. Sealed parcels were sent to Chemical Examiner for forensic examination. FSL reports are on record as Ex.PX/2 and Ex.PX/3.

5. On completion of investigation, challan/final report under Section 173 Cr.P.C. was presented by concerned SHO. Said report alongwith copies of documents relied upon by the prosecution were supplied to the appellant in terms of Section 207 Cr.P.C. Matter was committed to the Court of Sessions. Charges were framed under Sections 302, 364A, 376 and 201 IPC on 04.04.2012. Appellant pleaded not guilty and claimed trial.

6. Prosecution examined as many as fourteen (14) witnesses to buttress its case. Statement of appellant upon closure of prosecution evidence was recorded under Section 313 Cr.P.C. whereby entire incriminating evidence against appellant was put to him. He denied allegations against him, pleaded innocence and false implication. No evidence in defence was, however, led despite having availed various opportunities.

7. Learned trial Court on considering the evidence on record, facts and circumstances concluded that it was proved beyond reasonable doubt by prosecution that appellant is guilty of causing murder of Jaswinder Kaur after abducting her and having committed rape upon her and sentenced him as has

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been detailed in foregoing paras. Aggrieved therefrom, present appeal has been filed.

8. Learned counsel for appellant vehemently argued that learned trial Court has grossly erred on fact and in law in convicting the appellant for the offences as above. It is submitted that entire prosecution case rests upon circumstantial evidence, which is woefully insufficient to sustain conviction of applicant. It is contended that learned trial Court has incorrectly held that motive to kill Jaswinder Kaur is proved on record. There is in fact no connection between present appellant and Jaswinder Kaur as such. Presence of spermatozoa in vaginal swabs as per Chemical Examiner's report, Ex.PH is not sufficient evidence to indicate that deceased was raped by appellant before her death. It is a matter of record that she was a married woman. Furthermore, hair allegedly found in the hand of deceased and hair of appellant are not proved to be of the same person. Furthermore, as per report Ex.PX/2, hair in question are merely declared to be human hair without any indication as to whether hair found in the hand of deceased matched with sample of appellant's hair.

9. Learned counsel for appellant also argued vehemently that so-called call detail records of cell phone No.8146409842 of Gurwinder Singh, PW2 and of cell phone No. 8699157216, belonging to son of the deceased, are of no avail to the prosecution for the reason that it is not proved that appellant was using this cell phone. As per evidence on record, cell number 8146409842 was issued to Kuldeep Kaur wife of Raghbir Singh resident of House No. 2127, Adampur, Jalandhar. Moreover, recovery of one gold earring from the pocket of appellant and another allegedly recovered from Haveli of Kamalvir

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Singh son of Raghbir Singh statedly at the instance of appellant, is indicative of falsity of prosecution version. As per Ex. PC, one Jumper (shirt), white vest and a steel container (dolu used for storing/carrying milk alongwith lid) and one gold earring from a small steel container was recovered. Name of Jaswinder Kaur wife of Jasveer Singh was engraved on the side of steel container. It is strenuously urged that there is no logic behind the appellant keeping one gold earring in his pocket which was statedly recovered at the time of his arrest and the other gold earring in the small steel container. It is also submitted that in case appellant was in need of money and had demanded ransom, it is not possible that he would have left the said gold article in this manner.

10. Learned counsel for appellant submits that in fact deceased and her family used to collect milk from dairy of one Pappi i.e. elder brother of Kamalvir Singh but since the last 6/7 months, family started collecting milk from Kamalvir Singh. In fact, deceased had illicit relations with Kamalvir Singh and there was sexual intercourse with Kamalvir Singh on 20.11.2011. It is Kamalvir Singh who had done Jaswinder Kaur to death and present appellant was falsely implicated. It is, thus, prayed this appeal be allowed and impugned judgment and order dated 09.11.2012 be set aside.

11. Learned counsel for State has opposed the appeal and submits that prosecution has successfully proved its case against appellant. Chain of circumstances are duly proved on record and clearly point to no other hypothesis but to the guilt of appellant. Dead body of Jaswinder Kaur was recovered at the instance of present appellant. He reiterates that learned trial

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Court has correctly passed judgment and order dated 09.11.2012, which should be upheld. It is, thus, prayed that this appeal be dismissed.

12. We have heard learned counsel for parties at length and have perused the file and record with their able assistance.

13. It is a matter of record that FIR No. 248, Ex. PW3/D was registered on 21.11.2011 on the statement of Jasveer Singh PW1, husband of deceased, who specifically stated that his wife Jaswinder Kaur had gone to fetch milk from dairy of Kamalvir Singh as usual on 20.11.2011 at about 6.00 p.m. She did not return home and his son Gurwinder Singh received call from appellant from cell phone No. 8699157216. Appellant is stated to have demanded ransom of Rs.50 lakhs for release of Jaswinder Kaur and in the event of non-payment, he threatened to eliminate Jaswinder Kaur. Jasveer Singh has reiterated his version while deposing as PW1 before learned trial Court. Gurwinder Singh son of deceased has also narrated the facts as above while deposing as PW2. PW3 Sukhjiwan Singh brother of deceased has also deposed about the events as they unfolded.

14. Subsequent to arrest of appellant on 22.11.2011, disclosure statement Ex.PW11/C was suffered by appellant to the effect that after killing Jaswinder Kaur, her dead body was loaded in a cart meant for throwing cow dung. She was buried under the cow dung which was dumped in the field of Kamalvir Singh, his employer, taken on lease by him about which only the appellant had exclusive knowledge and can get the same recovered. Pursuant to recording of this disclosure statement, dead body of Jaswinder Kaur was recovered from under a heap of cow dung from the field of Kamalvir Singh. As per Post Mortem Report Ex.PG, cause of death of Jaswinder Kaur was

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asphyxia due to strangulation which was sufficient to cause death in ordinary cause of nature. All injuries including strangulation were found to be ante-mortem in nature. Injuries found on dead body are reproduced as hereunder:-

“ It was a partially putrefied dead body of moderately built and nourished female. Whole body was smelling with and smelling of cow dung. Bluish staining were present on face, neck, shoulder and upper Limbs. Clotted blood in nostril was present, skin was peeling off, abdomen distended, tongue protruding out, swollen, blood stained froth was in pharynx. On the neck 1.5 cm. x 32 cm. abraded contusion was present all around the neck- A rope seen around the neck and face about 1.5 cm. in diameter. Larynx and Trachea congested and filled with frothy blood. A bunch of hairs was present in each hand, which were sealed and handed over to the police.

On dissection of ligature mark, marked congestion subcutaneous tissue, neck muscles contused and in congested. Eyes were protruding out, sub conjunctival haemorrhage was present. On dissection of scalp, haematoma was present in both parietal areas on further exploration, left parietal bone was fractured, blood was present on left side of cranial cavity. Pleura congested, lungs congested markedly and partially putrefied. Liver, spleen and kidneys congested, stomach and intestine were partially putrefied. Uterus was healthy and empty. Vagina patulous, Hymen was absent. Two vaginal swabs and two vaginal slides were taken and sent for chemical examination. All other organs were healthy.”

15. PW5 Dr. Gurjit Singh, Medical Officer, Civil Hospital, Jalandhar has deposed in this respect. PW6 Dr. Parminder Singh, Medical Officer, Civil Hospital, Jalandhar upon receipt of Chemical Examiner's report Ex.PH, opined that since the report indicates presence of spermatozoa in vaginal swabs and slides of Jaswinder Kaur, possibility of sexual intercourse cannot be ruled out. It is further stated that it could not be ascertained whether said incident happened ante or post mortem. As per FSL report, Ex.PX/2, hair found in the hands of deceased at the time of death is stated to be human hair.

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It is apparent from medical evidence on record that death of Jaswinder Kaur was homicidal in nature.

16. There is admittedly no direct eye-witness account on record to inculcate present appellant. It is a settled position that in case of circumstantial evidence each intrinsic link must be proved on record to show unbroken chain of events pointing to none else but the guilt of accused.

17. In the present case, most material aspect to be considered is that dead body of Jaswinder Kaur was recovered at the instance of appellant subsequent to recording of his disclosure statement Ex.PW11/C. He stated in his disclosure statement that after killing Jaswinder Kaur, her dead body was loaded on a cart meant for throwing cow dung and buried under cow dung dumped in the field of Kamalvir Singh, his employer, who had taken it on rent. Recovery of dead body at the instance of appellant is one of most material piece of evidence which clearly points to his guilt.

18. It is pertinent to note that recovery of the dead body was effected in the presence of Naib Tehsildar, Jalandhar-II who was exercising the powers of Executive Magistrate at that time. Said Naib Tehsildar namely Karandeep Singh Bhullar deposed as PW8 and has duly narrated about the recovery of dead body on the pointing out of place in question by appellant. PW8 further stated that appellant cleared the dung with his hand and got the body recovered from underneath the dung. Dead body, which was naked, was taken in police possession vide memo, Ex.PD. At this stage, it is relevant to note that pursuant to disclosure by the appellant, shirt (jumper), white coloured vest undershirt, gold earring and container for carrying milk, belonging to deceased as well as small cart used for taking the body to the place in question for

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burying under the heap of dung was recovered at his pointing out. As per FSL report, dung recovered from the spot was blood stained. Human hair was recovered from the hand of the deceased. Argument raised by learned counsel for appellant that the said hair recovered was never sent for matching with the hair of appellant, therefore, he deserves to be acquitted, is again an argument devoid of any merit, for, it is a settled position that defective investigation by itself cannot be a ground for acquittal of the accused.

19 Call detail records between telephone number of son of deceased and number of the mobile phone recovered from appellant at the time of arrest, indicate telephonic conversation between appellant and son of deceased. This evidence additionally lends credence to version of PW1 and PW2. PW2 specifically stated that he received the call for ransom of Rs. 50 lakhs on his mobile phone from appellant and that in case he did not give Rs.50 lakhs, his mother would be killed. Argument raised by learned counsel for appellant that phone number in question had been released to Kuldeep Kaur, who is none other but mother of Kamalvir Singh probablises the case set up by appellant in defence, is devoid of any merit. Admittedly, mobile phone with number 8146409842 was recovered from appellant at the time of his arrest, thus, it was clearly being used by him. Therefore, this argument falls like a house of cards. Learned counsel for appellant was unable to point out any infirmity or irregularity in recovery memo Ex.PB of said mobile phone. It is a matter of record that Kamalvir Singh and his mother Kuldeep Kaur were given up by the prosecution as having won over by the accused.

20. It is pertinent to note at this stage that though in his statement under Section 313 Cr.P.C. appellant stated that he had been falsely implicated

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at the instance of Kamalvir Singh with connivance of police, there is no such evidence to substantiate this averment. Suggestion put to witnesses that deceased had illicit relations with Kamalvir Singh have been specifically denied by complainant, son and brother of deceased. It is opposed to all probabilities that in case there was any truth in such allegations, family members of deceased would have let the actual culprit go scot-free. Learned counsel for appellant is also unable to point out any discrepancy in recovery of steel container for carrying milk (dolu), shirt (jumper), white coloured undershirt (vest), gold earring and small cart/rehri in cattle shed under the heap of paddy straw pursuant to disclosure by the appellant. Steel container admittedly had the name of deceased engraved upon it.

21. Similarly argument that no drag marks were found at the spot where dead body was recovered by itself does not raise a doubt upon complicity of appellant in the matter. PW2 has specifically stated that he had received a call for ransom of Rs.50 lakhs from appellant on his cell phone and in the event of not handing over the said amount, it was threatened that Jaswinder Kaur would be done to death. Ingredients of Section 364A are clearly proved in this matter. Police authorities had been immediately notified on receipt of such demand and threat.

22. It is further noted that as per Chemical Examiner's Report, Ex.PH, spermatozoa was present in the vaginal swabs of the deceased. PW6 Dr. Parminder Kaur, Medical Officer, Civil Hospital, Jalandhar deposed that upon receipt of report Ex.PH, she opined that possibility of sexual intercourse cannot be ruled out. She further stated that as body of the deceased was putrefied at the time of Post Mortem, it could not be ascertained whether the

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said incident was ante or post mortem. In the given factual matrix, merely because DNA matching was not carried out by Investigating Agency cannot be a reason to conclude that deceased was not subjected to rape by appellant.

23. In our considered opinion, prosecution has successfully proved beyond reasonable doubt, the commission of offences punishable under Sections 302, 364A, 201 and 376 IPC, by the appellant.

24. Learned counsel for appellant is unable to point out any ground whatsoever which calls for interference in impugned judgment and order dated 09.11.2012.

25. No other argument has been addressed.

26. Keeping in view the facts and circumstances as above, impugned judgment and order dated 09.11.2012 passed by learned Sessions Judge, Jalandhar is, thus, upheld.

27. This appeal is, accordingly, dismissed being devoid of any merit.

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28. As appeal has been decided on merits, application for suspension of sentence of appellant is rendered infructuous.

29. Application is, accordingly, disposed of as infructuous.

**(LISA GILL)**  
**JUDGE**

**(SUDEEPTI SHARMA)**  
**JUDGE**

**May 03, 2025**

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No