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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(310)

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Reserved on: 06.03.2025

Date of Pronouncement:12.03.2025

Baljit Singh

... Appellant

V/s

The State of Haryana

...Respondent

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

Present: Mr. S.K. Hooda, Advocate,
for the appellant.

Mr. Ranvir Singh Arya, Addl.A.G., Haryana.

JASJIT SINGH BEDI, J.

The present appeal has been filed against the judgment of conviction and order of sentence dated 02/04.12.2004 passed by the Additional Sessions Judge, Hisar.

2. The instant FIR came to be registered on 11.04.2002. The accused-appellant came to be convicted vide judgment of conviction and order of sentence dated 02/04.12.2004. The present appeal against the judgment of conviction and order of sentence was filed on 18.01.2005. The matter has come up for final hearing now after 23 years of the registration of the FIR.



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3. The prosecution was set into motion on the basis of a statement made by Dharamvir son of Chattar Singh, caste Jat, resident of Urban Estate-II, Hisar (the complainant for short). His statement, when translated into English, reads as under.-

"I am resident of the above address and am serving in Roadways Department, Hisar. We are two brothers. I am elder and younger is Satbir Singh. Satbir Singh was residing in Shiv Nagar, Hisar alongwith his family and is serving in Agricultural Department. Office of Satbir Singh is near Chanderlane Colony. Criminal cases regarding shooting and quarrel are pending in courts between us and Baljit Singh son of Kedar Singh, caste Jat, resident of Khumba Khera presently of Chanderlane Colony, Kaimary Road, Hisar. The police has also initiated action regarding danger from each other. Today i.e. 11.04.2002 around 8-00 PM, I alongwith my brother Satbir Singh was waiting for the motor-cycle of my nephew Pawan Kumar near the turn of Sector-15, at Kalmary Road, Hisar on a bench at a tea shop. When my nephew reached around 8.15 PM, we were enjoying cold drinks. Baljit Singh, Master carrying a pistol came inside the shop near us and shot at temporal area of my brother Satbir Singh from very close range. My brother Satbir Singh fell down on the floor immediately after receiving the bullet injury and started bleeding. I and my nephew Pawan Kumar tried to apprehend Baljit Singh but he fled away on his scooter, which he had parked in the street in start position. Thereafter, I and my nephew Pawan Kumar came inside the shop and attended to my brother Satbir Singh and found that he had already died. I left my nephew Pawan Kumar and Anup Kumar shopkeeper near



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the dead body of my brother Satbir Singh and left for the police station to report the matter."

4. The FIR was registered on the basis of the statement of the complainant. The inquest report was prepared. The dead body of Satbir Singh was sent to the hospital for getting the autopsy conducted. A sketch of the place of occurrence was prepared. The accused was arrested and a country-made pistol with a cartridge case was recovered from him, which was duly taken into possession by the police. Blood stained chequered shirt, banian, white pant, underwear, one pair of shoes of white colour and one pair of socks of blue colour of deceased Satbir Singh which were handed over to the police by the doctor, after post-mortem examination were also taken into possession and were sent to the FSL Madhuban for analysis. On post-mortem examination, one bullet was recovered from the dead body of deceased Satbir Singh, which was converted into a sealed parcel, was then sent to the FSL Madhuban for ballistic examination. Besides this, blood stained soil was lifted from the spot and was converted into a parcel, was sealed and was sent to the FSL Madhuban for analysis. Statements of the witnesses were recorded under section 161 Cr.P.C. After conclusion of the investigation, challan against the accused was filed in the court

5. On being charged under section 302 IPC, the accused pleaded not guilty to the charge and claimed trial.

6. In support of its case, the prosecution examined thirteen witnesses in all besides placing reliance on several documents. PWs HC Om



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Parkash, C. Rajender, HC Abhey Singh, Anup Singh and SI Sada Ram were given up being un-necessary. The gist of their evidence is as under:-

PW-1 Constable Rajender Singh, PW-6 MHC Shiv Kumar and PW-7 HC Suresh Kumar tendered in evidence their affidavits Ex.PA, Ex.PH and Ex PJ respectively to complete the chain of link evidence.

PW-2/SI Om Parkash deposed about recording formal FIR Ex.PB/2 on receipt of Ex.PB rukka/statement of Dharambir (complainant) together with endorsement Ex. PB/1 of the Investigating Officer Abhey Singh.

PW-3/Dharamvir substantially supported the prosecution story regarding shooting down of his brother Satbir Singh by accused-appellant/Baljit Singh from point blank range and stated that there was enmity between both the parties due to previous criminal litigation.

PW-4/Dr. R.J. Bishnoi deposed about conducting the autopsy on the dead body of deceased Satbir Singh on police request Ex.PC and proved Ex.PD post-mortem report and Ex.PE diagram showing the location of the injuries on the person of the deceased. He identified his signatures on inquest report Ex.PF and also proved shirt MO-1, baniyan MO-2, underwear MO-3, Pant MO-4, socks MO-5 and MO-6, which were taken by him from the dead body of Satbir Singh before conducting the autopsy. He further identified bullet MO-7, which was taken out by him from the dead body of Satbir Singh at the time of post-mortem examination. Regarding the injuries and cause of death, he deposed as under:-



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“There was oral shaped wound on left side of face in front of tragus of left ear of size 2cm x 1.5cm. Margins of the wound were inverted and ecchymosed. Surroundings skin was scorched and tattooed. On probing direction of the wound was downwards and medially. On dissection around the track, the body of C-2 cervical vertebra was fractured and the bullet was impacted in the spinal cord at the level of C-2 vertebra. All the internal structures, muscles and vessels were lacerated in the direction of the track of the bullet.

All the internal organs of the body were pale and healthy. In my opinion, the cause of death was spinal injury alongwith shock and haemorrhage because of injury described, which was ante mortem in nature and was sufficient to cause death in ordinary course of nature”.

PW-5/Subhash Chander Draftsman deposed about visiting the spot and preparing scaled site plan Ex.PG at the instance of Pawan Kumar and stated that the site plan was correct and bore his signatures.

PW-8/Pawan Kumar substantially supported the prosecution story and PW-3/Dharamvir complainant.

PW-9/HC Sat Narain deposed with reference to the office record and proved Ex.PL, Ex.PM and Ex.PN, the copies of the FIR No.412 of 1999, FIR No.432 of 1999 and FIR No.681 of 2001, police station Civil Lines, Hisar respectively.

PW-10/Narender Singh deposed about receiving information at his residence to the effect that his uncle Satbir Singh was shot at the shop of Anup Singh and that he had reached the said shop at about 9.30 PM/9.45 PM

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but by that time, the dead body had been shifted to the Civil Hospital, Hisar, and therefore, he had come back to his house on his motor cycle. He further stated that thereafter, he was told to bring the motor cycle of Pawan Kumar from the shop of Anup Kumar around 12.10 midnight and that then the police had met him there. He further stated that he had accompanied the police to the house of Master Jito as he knew him by face; Master Jito was present inside his house in the last room and that on his personal search, one pistol was recovered from the dub of his pyjama and there was one empty cartridge in the said pistol. He stated that Ex.PQ sketch of pistol was prepared; that the pistol and cartridge case were taken into possession by the police vide recovery memo Ex.PO; that Maruti Car bearing registration No. DL-8C/3034 alongwith its documents and the shirt and payjama of the accused were also taken into possession by the police vide recovery memo Ex.PR; that the clothes were made into parcels which was sealed and the seal after use was handed over to him. He identified the country made pistol MO-8, cartridge-case MO-9, Shirt MO-10 and Payjama MO-11. PW-10/Narender Singh identified his signatures on memos Ex.PO and Ex.PR and sketch Ex.PQ.

PW-11/Vinod Kumar, photographer deposed about visiting the place of occurrence and taking photographs of the dead body and proved the negatives Ex.PS/1 and Ex PS/2 and positives Ex. PS/3 and Ex. PS/4.

PW-12/Daya Nand SI deposed about partly investigating the case and stated that pursuant to a disclosure statement, he had recovered

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Scooter bearing registration No. HNT-4245 belonging to accused-appellant/Baljit Singh from a vacant plot near his house and proved recovery memo Ex.PT and stated that the same was attested by Constables Om Parkash and Jaswant Singh. He further proved Ex.PU rough site plan of the place of recovery of the said scooter.

PW-13-Inspector Abhey Singh deposed about investigating the case and stated that on 11.04.2002, Dharamvir complainant had met him and had made his statement Ex.PB; that thereafter, he had made his endorsement Ex.PB/1 and had sent the same to the police station for registration of a case through Constable Ram Kumar, on the basis of which formal FIR was recorded. He further stated that he had summoned a photographer and had got the scene of occurrence photographed; that he had prepared inquest report Ex. PF and had lifted blood stained soil which was made into a parcel and was taken into his possession vide recovery memo Ex. PQ, which was attested by Pawan Kumar and that the seal after use was handed over to PW-8/Pawan Kumar. He further stated that he had prepared rough site plan Ex. PV of the place of occurrence with correct marginal notes and had recorded the statements of the witnesses under Section 161 Cr.P.C. and had sent the dead body of Satbir Singh for post-mortem examination to General Hospital, Hisar alongwith police request Ex.PC. He further deposed that on 12.04.2002 SI Sada Ram joined him alongwith police party and that then they associated Narender Singh/PW-10 in the investigation and they went to the house of Baljit Singh where he was found present and he was arrested

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and on his search one country-made pistol of .38 bore was recovered from his right dub. PW-13-Abhey Singh Inspector further stated that one cartridge-case was taken out from the pistol; that he prepared Ex.PQ sketch of the pistol; that the pistol and the cartridge-case were made into separate parcels and were sealed with seal AS and RKD respectively and were taken into possession vide recovery memo Ex. PO and that the seal after use was handed over to PW-10/Narender Singh. He further testified that he had also taken into possession from the house of the accused one Maruti Car bearing registration No. DL-8C/3034 alongwith its documents i.e. photo copy of driving licence, registration certificate, insurance cover note, pollution certificate, etc.; that he also prepared Ex.PX rough site plan of the place of recovery with correct marginal notes. PW-13-Inspector Abhey Singh further stated that on return to the police station, he deposited the case property with the MHC with seals intact and on 12.04.2004 HC Abhey Singh and HC Suresh Kumar had produced before him sealed parcels of clothes and glass vial brought by them from the hospital after post-mortem examination on the dead body of deceased Satbir Singh and that he had taken the same into his possession vide recovery memo Ex.PY. He also stated that he had taken into possession shirt and pyjama of the accused on 12.04.2002; had sealed the same and had taken the sealed parcel into his possession vide recovery memo Ex. PR and seal after use was handed over to Narender Singh/PW-10. He deposed about recording the statements of Sada Ram and Narender PWs and about interrogating accused-Baljit Singh, who suffered a disclosure

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statement to the effect that he (Baljit Singh) had kept concealed his scooter near his house. The disclosure statement was signed by accused-Baljit Singh and was attested by Constable Om Parkash and Constable Rajender. He further deposed that after completion of the investigation, he had correctly prepared police report under Section 173 Cr.P.C.

The Public Prosecutor tendered in evidence Ex.PCC order whereby the District Magistrate, Hisar sanctioned the prosecution of the accused and also tendered FSL reports Ex.PCC, Ex.PDD and Ex.PDD/1 in evidence.

7. Statement of the accused as contemplated under section 313 Cr.P.C. was recorded in which he denied all the incriminating evidence and circumstances appearing against him and claimed himself to be innocent stated that he had been falsely implicated. In his defence, he tendered in evidence Ex.DC, Ex.DD, Ex.DE and Ex.DF copies of judgments dated 18.08.2004, 31.07.2002, 20.01.2002 and 07.07.2004 respectively of the cases, which were registered against him on different dates at the instance of the present complainant and in which he was acquitted by the courts.

8. Based on the evidence led, the accused-appellant/Baljit came to be convicted and sentenced by the Court of the Additional Sessions Judge, Hisar vide judgment of conviction and order of sentence dated 02/04.12.2004 as under:-

Offence U/S	Sentence	Fine	SI in default of payment of fine
302 IPC	Imprisonment for Life	Rs.5,000/-	RI 02 months



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9. The aforementioned judgment of conviction and order of sentence dated 02/04.12.2004 passed by the Additional Sessions Judge, Hisar is under challenge before this Court.

10. During the pendency of this appeal, the sentence of the accused-appellant, namely, Baljit Singh was suspended by this Court vide order dated 03.10.2008.

11. The learned counsel for the accused-appellant contends that the prosecution witnesses are planted ones. There was a considerable delay in the registration of the FIR. The occurrence took place on 11.04.2002 at 8.15 pm. The statement was given to the police on the same day i.e. 11.04.2002 at 8.45 p.m. whereas the Special Report reached the Magistrate only at 01.30 A.M. Their presence at the spot is doubtful. They are stated to have taken the deceased to the hospital but no blood stains were found on their clothes. The medical evidence is in conflict with the ocular account. The ballistic report also does not support the prosecution case. He, thus, contends that the judgment of conviction dated 02.12.2004 was liable to be set aside.

12. The learned counsel for the State, on the other hand, contends that the medical evidence is totally in consonance with the ocular account. The FSL report categorically shows that the weapon recovered from the accused was used in the occurrence. Minor discrepancies as to the distance from which the shot had been fired upon the deceased would not effect the veracity of the prosecution case. Prior enmity between the parties stands



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established on the record. There is no delay in the registration of the FIR as has been sought to be argued. He, therefore, contends that there was no merit in the present appeal and the same was liable to be dismissed.

13. We have heard the learned counsel for the parties.

14. The occurrence had taken place around 8.15 PM and the FIR was lodged around 8.45 P.M. The Special Report reached the Illaqa Magistrate at 1.30 A.M. Though, the house of the Magistrate was not too far, however, due to odd hours and due to the non-availability of conveyance, the delay of about four hours in sending the special report to the Magistrate cannot be termed to be fatal to the prosecution case.

15. The motive in the instant case stands established beyond doubt. Acquittal in four cases earlier under Section 307 IPC and other sections from the different courts, cannot lead to the assumption that the accused has been falsely implicated. In fact the accused was convicted in a case emanating out of FIR No.301 dated 13.07.1999 under Sections 324 IPC, Police Station Civil Lines Hisar, got registered by Ishwar son of the present complainant-Dharamvir.

16. The kurta and pyjama of the accused were blood stained and they were taken into possession by the police and sent to the FSL, Madhuban for examination. The copy of the Serological analysis report is available on record as Ex. PDD/1. It shows that the origin of the blood on the Kurta and Pyjama of the accused was human and the blood on Kurta was of group 'B' though the group of blood on the pyjama could not be



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determined conclusively. The Shirt, Banian, Pant, underwear, shoes and socks of the deceased were also sent to the FSL Madhuban for analysis and on serological analysis, they were found to be stained with blood, origin of which was human and blood group was 'B' except that the group of blood on the shoes and socks could not be determined conclusively. This similarity of the blood group found on clothes of the accused and clothes of the deceased connects the accused with the crime. The accused has not explained the presence of human blood on his clothes.

17. Further, Ex. PCC is the report of the Ballistic Expert, Revolver .38 bore W-1, cartridge case .38 bore C1 and bullet .38 bore BC/1, recovered from the dead body of deceased-Satbir Singh were examined by the Ballistic Expert and he opined that .38 bore country-made pistol (chambered for .38 bore revolver cartridges) was a fire arm and its firing mechanism was in working order. The Ballistic Expert further opined that .38 bore cartridge case C1 and .38 bullet BC/1 had been fired from the country-made pistol W-1 and were not fired from any other firearm even of the same make and bore/calibre because every firearm has got its own individual characteristic marks. The recovery of the country-made pistol and cartridge case from the accused, which were used in the commission of offence is a very importance piece of evidence to connect the accused with the crime.

18. Therefore, from the evidence on record, it stands established beyond doubt that accused-Baljit Singh had killed deceased-

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Satbir Singh by firing at his temporal region from point blank range and the guilt of the accused has been well proved by ocular evidence coupled with medical, forensic serological and ballistic evidence.

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

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

(GURVINDER SINGH GILL)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

12.03.2025
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No