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

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Date of decision : 13.08.2025

Ompal Singh and others

... Appellants

Versus

State of Haryana

... Respondent

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

Present:- Mr. Sunil Panwar, Advocate and
Mr. Dhruv Singh, Advocate for the appellants.

Mr. Karan Sharma, DAG, Haryana.

H.S. Grewal, J.

1. The present appeal has been preferred against the judgment and order of sentence dated 20.01.2004 passed by the learned Additional Sessions Judge, Narnaul in case F.I.R. No.251 dated 31.12.2001, under Sections 302/323/120-B/34 IPC, registered at Police Station Kanina, District Narnaul whereby the appellants had been convicted and sentenced to undergo rigorous imprisonment for life, to pay a fine of Rs.500/- each under Section 302/34 IPC and in default of payment of fine, to undergo further RI for two months.

2. The case of the prosecution is that on 31.12.2001, the complainant-Rishal Singh s/o Chander Singh had met with the police party



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headed by SI/SHO Laxmi Narain, Police Station, Kanina at bus stand of village Dhanunda and got his statement recorded to the effect that he was an agriculturist and Ex.Sarpanch of village Kheri. He and Babu Dan Singh had taken a sub vend of liquor of their village but due to some ill-will between them, Babu Dan Singh was removed from the partnership of the said vend, due to which, he had kept a grudge against him. On 31.12.2001 at about 06:00 A.M., when he reached in front of his house after answering the call of nature, Babu Dan Singh had suddenly started hurling filthy abuses to him and also caught hold of him while his son Ompal, who was armed with lathi, gave a lathi blow on his right hand. On this, the complainant raised noise and his sons, namely, Rajbir and Dharamvir reached there and on seeing them, Babu Dan Singh and his son Ompal went inside their house giving threat that they would teach them a lesson.

3. After sometime, Babu Dan Singh, his sons Ompal alias Omparkash, Satbir, Dharamvir alias Dhiru and Jeet Singh armed with *lathies* and *kulhari* started going outside of their house. On this, the complainant suspected an attack by the accused persons on his brother-Matu Singh at his well, therefore, he and his sons Rajbir and Dharambir alongwith his nephew Madan Singh started following them on the road towards village Aghiar side. There was a lot of fog at that time. After reaching near the well of his brother-Matu Singh, they heard noise so they rushed towards the well and saw that Babu Dan Singh, Ompal, Satbir, Dharamvir and Jeet Singh were causing injuries to his brother Matu Singh with weapons and they had thrown Matu



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Singh in the well. Thereafter, all the five accused persons alongwith their weapons had run away and the complainant had found that the blood was lying near the well and the pipe of the well was also stained with blood. The complainant, thereafter, had gone to the police for giving information after deputing his sons and nephew to look after the place of occurrence. On this complaint, the instant FIR had been registered against the accused persons and challan was presented against them. Upon which, they were charge-sheeted under Sections 148, 201/302/323/149 IPC, to which they pleaded not guilty and claimed trial.

4. Learned counsel for the appellants submits that the trial court had erred in convicting the appellants as there were material contradictions in the statements of prosecution witnesses. There is a delay of 05 hours in lodging the FIR. The version of the complainant is unnatural and unreliable because he claimed to have walked from the place of incident (the well of Matu Singh) which was only 2.5 km away from the police station, even though PW10 Madan Singh, who is deceased's son, had a scooter at home and there were also tractors and jeeps available in their village. Moreover, there were cuttings/overwriting in the police endorsement regarding the time mentioned on the complaint (Ex.PK) given by the complainant Rishal Singh. He also submits that there are conflicts between the medical and eyewitness evidence on the ground that the complainant Rishal Singh had stated that the incident happened at 7:45 AM on 31.12.2001. However, PW5 Dr. Gaj Raj Singh testified that Matu Singh's death likely happened before 5:20 AM, based on the



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semi-digested food found in his stomach. He also suggested that Matu Singh, being an old man, could have accidentally fallen into the well during the fog. Moreover, PW10 Madan Singh had admitted that his father had no past enmity with the accused persons. The appellants had duly proved that the instant FIR is the counterblast to FIR No. 21 dated 01.02.2002 wherein the complainant party was arraigned accused for causing injuries to Babu Dan Singh and both his legs were fractured. He, therefore, prays for allowing the appeal, setting aside the impugned judgment and order of sentence and acquitting the appellants of all the charges.

5. On the other hand, learned State counsel submits that the trial Court had rightly convicted the appellants under Section 302/34 IPC on the basis of cogent, reliable and trustworthy evidence. He further submits that the delay of 5 hours in lodging the FIR was natural in the circumstances and did not weaken the prosecution case. The complainant's version is trustworthy and consistent with the evidence on record. Minor discrepancies or overwriting in the documents do not affect the overall truth of the case. He also submits that the medical evidence does not rule out the eyewitness account of the occurrence. The suggestion that Matu Singh might have accidentally fallen into the well was only a baseless defence theory. He also submitted that the absence of blood stains on the weapons does not discredit the prosecution version as the incident was otherwise fully proved by the direct evidence of the witnesses. He, therefore, submits that there is no ground for interference by this Court as



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the prosecution has proved the appellants' guilt beyond reasonable doubt and the appeal deserves to be dismissed.

6. We have heard learned counsel for the parties and have perused the material available on record.

7. In order to substantiate the charge against the appellant, the prosecution had examined as many as 13 prosecution witnesses i.e. PW1 Photographer Chhotu Ram, PW2 HC Mittar Sein, PW3 Constable Ishwar Dutt, PW4 Mange Ram Patwari Halqua Kheri, PW5 Dr. Gajraj Singh, PW6 EHC Yaubkhan, PW7 Krishan Singh, PW8 Rishal Singh (complainant), PW9 Dr. Jitender Kumar, PW10 Madan Singh(son of the deceased), PW11 HC Rajender Kumar, PW12 Inspector Daya Ram and PW13 SI Laxmi Narain.

8. PW1 Photographer Chhotu Ram had deposed that on police request, he had taken photos of the well situated near village Kheri. He had proved the photos as Ex.P1 to Ex.P5 and their negatives Ex.P6 to Ex.P10.

9. PW2 HC Mittar Sein had deposed that on 31.12.2001, he was posted as MHC Police Station Kanina and had recorded the formal FIR (Ex. PA) after receiving rukka from SI/SHO Laxmi Narain. He also deposed that SI Laxmi Narain had deposited three parcels containing blood stained earth, blood stained cloth and clothes of the deceased on the same day. On 02.01.2002, District Inspector Daya Ram had deposited two parcels containing Lathi and Barchhi and on 05.01.2002, SI Laxmi Narain had deposited two more parcels containing Kulhari and Jelly. He thereafter deposed that on 18.01.2002, he had



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sent all the parcels to FSL Madhuban through Constable Ishwar Dutt and that till the parcels remained in his possession, he did not tamper with the seals thereof nor allowed anyone to do so.

10. PW3 Constable Ishwar Dutt had deposed that on 31.12.2001, he had delivered the copies of special report to the concerned officers and on 18.01.2002, he had carried parcels to FSL Madhuban after taking the same from MHC Mittar Sein and deposited the same with the FSL Madhuban on the same day. He had also stated that the parcels were kept intact by him when the same remained in his custody.

11. PW6 EHC Yaubkhan had deposed that on 31.12.2001, he alongwith Constable Virender Singh got the post mortem examination on the dead body of Matu from CHC Mahendergarh on the directions of District Inspector Police, Narnaul and thereafter, the dead body was handed over to the legal heirs of Matu Singh. He had also deposed that at that time, Doctor had handed over one parcel to him which he had handed over to District Inspector and the same was taken into possession vide memo Ex.PF.

12. PW5 Dr. Gajraj Singh had deposed that on 31.12.2001 at about 05:20 P.M. on the police request Ex.PD which was accompanied by X-ray report (Ex.PE), he alongwith Dr. Karan Singh had conducted the post mortem examination on the dead body of Matu Singh son of Chander Singh on the identification of Rishal Singh as well as Madan Singh vide post mortem report Ex.PC and pictorial diagrams Ex.PC/1 and Ex.PC/2. As per his opinion, injury



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no.1 was sufficient to cause death in the ordinary course of nature which is reproduced hereunder:-

“A lacerated wound of size 6x2 cm was present on left parietal region obliquely placed. On opening the skull multiple fractures of skull bones were present from which the brain matter was protruding out. The lacerated would was red in colour.”

The Doctor also deposed that after the post mortem examination, they had handed over well stitched dead body to the police along with carbon copy of the Post mortem report and a sealed parcel containing the clothes of deceased i.e. shirt (Ex.P11), Baniyan (Ex. P12), sweater (Ex. P13) and Dhoti (Ex.P14).

13. PW9 Dr. Jitender Kumar had deposed that on 31.12.2001 at about 03:50 P.M, when he was posted at CHC Kanina, on police request Ex.P1/1, he had medico-legally examined the complainant-Rishal Singh vide MLR and the carbon copy of which was Ex.PM. He also deposed that on the same day, Babu Dan Singh had come to him at 11:30 A.M. and was medico legally examined by him at 12.00 vide MLR, the carbon copy of which was Ex.DB. The bed head ticket of Babu Dan Singh had been proved by this witness as Ex.DC. This witness had also examined Babu Dan Singh radiologically on the same day i.e. 31.12.2001 and found fractures of tibial bones in both the legs vide report Ex.DD. As per the statement of this witness, he examined Ompal son of Babu Dan Singh on 01.01.2002 medico-legally vide MLR (Ex.DE) on the police request Ex.DE/1. In his cross examination, he had admitted that the injury on the person of Rishal Singh (complainant) could be caused by friendly hand or



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suffered by fall or self suffered then it cannot be definitely said that Rishal Singh had suffered this injury at the hands of accused Ompal Singh.

14. PW7 Krishan Singh had deposed that on 02.01.2002 when he had gone to Police Station, Kanina alongwith Sahab Singh, the police had taken out Satbir Singh and Ompal from police lock-up who had made disclosure statements Ex.PG and Ex.PH respectively and got recovered the Lathi (Ex.P15) and Farsi (Ex.P16) respectively from the disclosed places at village Kheri and the same were taken into possession by the police vide memo Ex.PJ which bore his signatures as well as of Sahab Singh after preparing the sketch plans Ex.PJ/1 of Lathi and Ex.PJ/2 of Farsi.

15. The complainant Rishal Singh, while stepping into the witness box as PW8, had corroborated the version as reiterated in his statement Ex.PK. He further deposed that inquest report Ex.PF was prepared in his presence which bore his signatures. He also deposed that on 05.01.2002, Ajit Singh and Dharamvir Singh had made disclosure statements Ex.PL and Ex.PM respectively in his presence regarding the concealment of Jelly (Ex.P17) and Kulhari (Ex.P18) which were taken into police possession vide recovery Memo Ex.PN, after preparing its sketch plans Ex.PN/1 and Ex.PN/2 respectively.

16. PW10 Madan Singh son of deceased Matu Singh had also supported the prosecution story as well as the statement of his uncle Rishal Singh in all respects.

17. Other prosecution witnesses including formal witnesses had reiterated the link evidence.



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18. After closing the prosecution evidence, the statements of the appellants under Section 313 Cr.P.C. were recorded wherein they had denied all the allegations and pleaded innocence. They had deposed that they had been falsely implicated in this case and there is no motive for the alleged murder. As per their version, on 31.12.2001 at about 06/06:30 A.M. when Babu Dan Singh was going towards his field from his house and reached a place near the shop of Ishwar Singh, then the complainant-Rishal Singh, his sons Rajbir Singh, Dharamvir alias Dhiru and Mainpal as well as Madan Singh and Rambir Singh had inflicted injuries to him. Rishal Singh had given a reverse Farsi blow on his right leg while Rajbir had attributed a lathi blow on left leg and others gave him lathi, fist and slap blows. They also pleaded that when Ompal Singh had come for the rescue of Babu Dan Singh after hearing the noise, he was also given lathi blow by Rishal Singh and others. Thereafter, Babu Dan Singh was taken to CHC Kanina and his both legs got fractured. The alleged occurrence was seen by Bahadur Singh. They had also deposed that none of them had caused any injury to Matu Singh and he, being an old man of 70 years, might have fallen in the well at night due to fog. The complainant party had falsely implicated them in order to save themselves from the criminal case regarding beatings given to Babu Dan Singh and Ompal by them.

19. In their defence, they had examined Satbir Singh, Criminal Ahlmad of learned J.M.I.C. Mahendergarh, who had proved the copy of report under section 173 Cr.P.C. in FIR No. 21 dated 01.02.2002, registered under Sections 323, 325, 34 IPC at Police Station, Kanina as Ex.DH. In the said



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report, Rishal Singh, his sons Rajbir, Dharamvir and Mainpal alongwith Madan Singh and Pappu @ Rambir sons of Matu Singh all residents of village Kheri were mentioned as accused. The copy of the rough site plan attached with the original of Ex.DH had been proved on the file as Ex.DJ.

20. After considering the statements of all the witnesses and taking into account the evidence led by both the sides, the trial Court had convicted the appellants-Ompal Singh, Satbir Singh, Dharamvir and Ajit Singh for the offence punishable under Sections 302/34 IPC while they were acquitted of the charges levelled against them under Sections 148, 201/149 and 323/149 IPC. Babu Dan Singh was acquitted of all the charges levelled against him.

21. A perusal of the entire facts and circumstances as well as the testimonies of the witnesses, this Court finds that there are certain inconsistencies in the prosecution case inasmuch as there is an undisputed delay of about five hours in lodging the FIR, although the complainant had stated that he met the police party at the village bus stand early in the morning. The explanation for this delay is unsatisfactory, particularly when the well was only about 2.5 km away from the village, vehicles were available in the village and PW10 Madan Singh admittedly had a scooter at home. There are also cuttings/overwriting on the time mentioned in the endorsement (Ex.PK/1) on the complaint (Ex.PK), which doubts that the FIR was finalized after deliberation.

22. There are certain conflicts with regard to medical as well as ocular version especially the complainant had deposed that the incident took place at



about 7:45 a.m. on 31.12.2001 but the PMR indicates that there is a greater probability of death occurring before 05:20 a.m. This major conflict was never explained. When medical evidence does not match with the eyewitness version, the safer course is to treat the ocular version with caution.

23. The prosecution had admitted that the deceased was about 70 years of age and the day of incident was foggy. According to the Doctor's opinion, the possibility of an accidental fall into the well by an elderly person in such conditions cannot be ruled out.

24. PW9 Dr. Jitender Kumar, who had medically examined Babu Dan Singh on 31.12.2001, had found fractures of both legs. The investigating officer PW12 Inspector Daya Ram and PW13 SI Laxmi Narain had confirmed that as per investigation, Babu Dan Singh was not present at the scene because both his legs were fractured. This directly supports the defence claim that there was a counter-incident in which Babu Dan Singh was beaten. It also suggests that to cover up this fact, the prosecution put forward a story of the murder of Matu Singh, and had failed to explain the true genesis of events.

25. Moreover, PW9 Dr. Jitender Kumar had categorically deposed that the injuries which are alleged to be found on the person of the complainant could be self-suffered or by a friendly hand. This significantly dilutes its corroborative value and does not independently strengthen the prosecution case.

26. All the eyewitnesses are closely related and an interested party. There is no independent witness to the incident, even though the occurrence is



alleged to have happened near a well. In such circumstances, independent support becomes important, but it is missing here.

27. Although lathi/farsi/kulhari/jelli were allegedly recovered on the the disclosure statements of the appellants but the prosecution has not established any blood on these weapons nor any scientific link tying them to the fatal injury, which weakens the prosecution case.

28. The prosecution had also failed to prove motive because as per the version of the complainant, Babu Dan Singh had a grudge with the complainant with regard to a liquor sub-vend dispute but there was no dispute with the deceased, who was brother of the complainant. PW10 Madan Singh had admitted that the deceased had no prior enmity with the accused persons.

29. The appellants, in their defence, had duly proved the copy of report under Section 173 Cr. P.C. in FIR No. 21 dated 01.02.2002, registered under Sections 323, 325, 34 IPC at Police Station, Kanina (Ex.DH) wherein the complainant party had been mentioned as accused for causing injuries to Babu Dan Singh. The existence of this counter-case coupled with the proved fractures of Babu Dan Singh's legs on the same day, suggests that the prosecution did not present the complete and true sequence of events.

30. The prosecution had also failed to prove that all the appellants have shared a common intention to commit murder of Matu Singh especially when there is doubtful presence of some accused, the medical-ocular conflict and the unreliable recoveries. Moreover, the roles attributed to the appellants



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do not corroborate with the medical probabilities and the chain of incriminating circumstances.

31. In view of the above material contradictions, we are of considered view that the prosecution story is not trustworthy. Consequently, the appeal is allowed and the judgment of conviction and order of sentence dated 20.01.2004 passed by the learned Additional Sessions Judge, Narnaul is hereby set aside. The appellants Ompal Singh, Satbir Singh, Dharamvir and Ajit Singh are acquitted of all the charges levelled against them.

32. Pending application(s), if any, shall stand disposed of accordingly.

(MANJARI NEHRU KAUL)
JUDGE

13.08.2025
A.Kaundal

(H.S.GREWAL)
JUDGE

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