



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-542-2019
Date of decision: 04.09.2025

BALBIR SINGH ..APPLICANT

VS.

STATE OF HARYANA AND OTHERS ..RESPONDENTS

CRM-A-486-2019

BALBIR SINGH ..APPLICANT

VS.

STATE OF HARYANA AND ANOTHER ..RESPONDENTS

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
HON'BLE MRS. JUSTICE RAMESH KUMARI

Present: Mr. S.S. Mor, Advocate for the applicant(s).

Mr. Yuvraj Shandilya, Addl. AG, Haryana.

RAMESH KUMARI, J.

1. The present applications seeking leave to appeal have been filed by the applicant-complainant against the two separate judgments dated 30.11.2018 passed by the learned Additional Sessions Judge, Sonipat, in case FIR No. 167, dated 09.07.2017 under Sections 380, 460, 302, 411, and 34 of the Indian Penal Code, 1860, registered at Police Station Barauda, District Sonipat, vide which four accused/respondents, who were challaned in Sessions Case No.479 of 2016, and one CCL, against whom Inquiry Report i.e. Sessions Case No.86 of 2018, was presented, were acquitted of charges framed against them.



2. The applicant-complainant has assailed the findings of the acquittal primarily on the ground that the learned Trial Court failed to appreciate the oral and medical evidence against the four accused/respondents and (CCL)/respondent as well as failed to appreciate that the recoveries i.e. weapon of offence is effected from them and undue weightage is given to the alleged discrepancies in the statements of the prosecution witnesses.

3. Before proceeding further, it would be relevant to summarize the case of the prosecution in brief are;

3(i) FIR No.167 PW9A was registered on 09.07.2016, on the basis of complaint PW-01A of PW-1 Balbir Singh when the police visited the place of occurrence on receipt of telephonic information regarding murder of his brother Ramdhari, who was a priest in village Barauda.

3(ii) PW-1 Balbir Singh, in his complaint PW01A, stated that on 09.07.2016 at about 5:15 p.m., one Raghbir, S/o Dhan Singh informed that his brother Ramdhari was lying on a cot in an injured condition. He, along with other villagers, reached the place of occurrence, i.e., *Googa Marri*, where his brother Ramdhari was found lying dead. The locks of the store room, place of worship, and other rooms of the *Marri* were found broken and missing.

3(iii) PW7 Ramesh Chander made endorsement PW7A on statement PW1A and FIR was registered. Inquest report PW7C of the dead body was prepared and body was send for postmortem. Postmortem of the dead body of deceased was got conducted PW11 Dr. Harish Kumar and medical



samples were obtained. PW7 Ramesh Chander lifted piece of cloth smeared with blood from the spot and took into police possession vide Memo PW4A. The statements of witnesses were recorded, the site of the incident was inspected, and a site plan PW7B was prepared.

3(iv) On 01.08.2016, PW-1 got recorded his statement PW1B to the police alleging that he came to know that his brother, Ramdhari, has been murdered by Mohit, son of Ajmer, Deepak @ Bhartu S/o Rattan, (CCL) and Rahul @ Pakoda. All the accused had fled from the village after committing murder of Ramdhari. He identified accused Deepak, Mohit and Rahul. All the accused had committed murder of Ramdhari on 09.07.2016.

3(v) On 08.02.2016 PW-10 Sub Inspector-Naresh Kumar arrested accused Rahul, Deepak and Mohit CCL was also apprehended. Their disclosure statements PW10A to PW10D were recorded. In pursuance of their disclosure statements, accused Mohit got recovered *danda* MO1, Deepak got recovered bamboo *danda* MO2, accused Rahul got recovered *Jelly* MO3 which were taken into possession vide memo of recovery PW6B, PW6D, PW6F respectively and their respective sketches PW10E PW6C and PW6E were prepared. CCL got recovered Iron Rod MO4 vide memo PW-6/H and its sketch PW6G was prepared. The place of occurrence PW4/B was also prepared on the identification of above-named three accused and CCL. Recovery of site plan was prepared vide PW-10/F.

3(vi) Accused Amit was arrested on 05.08.2016 and on the basis of his disclosure statement PW10G he got recovered one buffer MO7 and two speakers MO5 and MO6 which were taken into police possession vide memo of recovery PW10H and site plan PQ10/1 were also prepared.



3(vii) After completion of investigation, challan against above-named respondents were presented and inquiry report against CCL was presented.

4. After being charged, prosecution examined 14 witnesses including complainant PW1 Balbir Singh who proved got recorded his statements PW1A and PW1B.

PW5 Balraj who identified the dead body of deceased Ramdhari.

PW7 Sub Inspector Ramesh Chander, who recorded the statement PW1A and made endorsement PW7A and sent *ruqa* for registration of FIR. He also prepared site plan PW7B, inquest report PW7C of dead body, lifted bed sheet stained with blood on the spot and took into possession vide PW4A. He also got conducted the postmortem examination on 10.07.2016 on the dead body of Ramdhari from Dr. Harish Kumar PW11 and took the deceased's clothes into police possession vide PW2A.

PW11 Dr. Harish Kumar proved the factum of postmortem of dead body of Ramdhari.

PW2 Constable Rajender took over the sealed parcels of clothes tide on the mouth of the deceased from Doctor and handed over to PW7, SI Ramesh Kumar vide PW2A.

PW8 Ashok Kumar, Patwari prepared site plan PW8A.

PW9 Nar Singh, Deputy Superintendent of Police lodged FIR PW9A.

PW10 S.I. Naresh Kumar arrested accused Rahul, Deepak, Mohit on 02.08.2016 and accused Amit on 05.08.2016 and also took CCL



in protective custody on 02.08.2016 and deposed about recoveries from them.

PW3 Constable Sunil Kumar and PW4 Assistant Sub Inspector Gulshan Kumar and PW12 PW3 Constable Sunil collaborated the testimony of Sub Inspector Ramesh Chander PW7. PW6 Ashok Kumar is also witness of recoveries allegedly effected from Mohit, Deepak, Rahul and CCL.

PW4 ASI Gulshan Kumar is also attesting witness of memo of demarcation PW4B.

PW13 proved the link evidence and PW-14 presented report under Section 173 Cr.P.C.

5. Accused in defence examined DW1 Vishesh, deposed about innocence of accused Mohit, Deepak, Rahul, Amit and CCL and alleged that there are two panchayats in village. Deceased Ramdhari belonged to *Mor pana* and they belong to *Khasa*. Ramdhari was addicted to liquor and other sedative substance. On the intervening night of 08/09.07.2016 he was present at his fields near *Gugamadi* and on the morning at about 7:00 A.M. came to know that Ramdhari was murdered by some unknown persons. In his presence Balbir Singh, complainant, PW1 made a statement to the police that Virender, Dainy, Atru, Ajay and Vikas had committed the murder as they were consuming liquor and other sedative substance with Ramdhari.

6. The Ld. Trial Court disbelieved the testimony of PW1 complainant Balbir Singh and came to the conclusion that the case is based on circumstantial evidence but the prosecution failed to prove the circumstances which are consistent only with the hypothesis of the guilt of the accused and totally inconsistent with their innocence. Learned trial Court



in support of its findings relied upon *C. Chenga Reddy v. State of A.P. (1196) 10SCC 193*; *Bhagat Ram v. State of Punjab, AIR 1954 Supreme Court 621*; *State of U.P. v. Ashok Kumar Srivastava, 1992(3) RCR (Crl.) 63 (SC)*.

7. The applicant-complainant has challenged the acquittal contending *inter alia* that:

- (i) Learned trial Court failed to appreciate that murder has been committed and PW1 has specifically named all the four accused and CCL in the commission of offence.
- (ii) Learned trial Court has rendered a separate judgment against the CCL whereas charges against him are same as against other four accused.
- (iii) Fourteen witnesses have supported the prosecution case and PW1 Balbir Singh has specifically identified all the four accused and CCL in the Court but learned trial Court did not consider the merits of case and evidence available on file.
- (iv) Learned trial Court ignored the fact of recoveries effected on the disclosure statements and they also admitted their involvement in the murder and all the accused and CCL admitted their involvement in the murder of accused and also explained the motive in the commission of offence. But learned trial Court ignored this fact.
- (v) The blood was detected on the weapons as per the FSL report Exs. P3 & P4 but the learned trial Court failed to appreciate this evidence.



- (vi) PW11 *Dr. Harish Kumar* testified that the cause of death of *Ramdhari* was a head injury, and these injuries were possibly inflicted by the weapons recovered from the accused but learned trial Court ignored this fact.
- (vii) The learned trial Court has unnecessarily put emphasis on the fact that the case is based on circumstantial evidence and in case based on circumstantial evidence, the chain of circumstances needs be well-knit and complete. But the trial Court failed to appreciate the chain of circumstances in the form of the disclosure statements and the recoveries effected from the accused.
- viii) Learned trial Court observed that Satyawan and Raghbir have not been cited as witnesses despite the fact that Raghbir is the one who reported the occurrence to the complainant and Satyawan, who left the deceased at *Goga Maari* on the previous night of occurrence. Their evidence was not necessary.
- ix) There was ample evidence and other proofs available against the accused but some of them were destroyed by the police and the remaining were not appreciated by the trial Court. The learned trial Court acknowledged the police's negligence but erred in failing to appreciate the recovery of the weapon of offence from the accused.
- x.) The learned trial Court has based its findings on hypothetical assumptions and conjectures, while ignoring the actual facts and evidence on record.



xi) The learned trial Court wrongly believed the defence version that the accused were falsely implicated in this case due to rivalry in the panchayat elections but no suitable document has been brought on record to prove this fact.

xii) The learned trial Court has failed to appreciate the evidence and the applicant-complainant has, therefore, prayed for allowing the applications seeking grant to file the appeals.

8. We have heard learned counsel for the parties and perused the relevant material placed on record.

9. The present case is based on circumstantial evidence as there is no eyewitness of the murder of Ramdhari. PW1 Balbir Singh is brother of deceased Ramdhari. He in his statement PW1A dated 09.07.2016 did not name anybody in the commission of offence of murder of his brother Ramdhari which took place on the intervening night of 8/9.7.2016 and initially the FIR PW9A was registered against unknown persons. The name of accused and CCL is mentioned for the first time by PW1 Balbir Singh on 01.08.2016, while recording his supplementary statement PW1B.

Now coming to the evidentiary value of the statement of the PW1 complainant Balbir Singh. He during cross-examination stated that he named the accused persons on the basis of rumours. He also alleged that he verified the facts but his source of verification is not known. PW1 Balbir Singh also deposed that he came to know about the accused through Inder, Balraj and Nafe but they were not cited and examined as witnesses. Thus, the accused and CCL were apprehended and taken into protective custody only on the basis of suspicion. There was no evidence that accused absconded from house. The law is well settled that is suspicion can never



become substitute for proof. Strong suspicion or coincidence creating grave doubt cannot take the place of legal proof. It is the duty of the Court to ensure that suspicion is not mistaken for legal proof. Rumour cannot take place of suspicion and suspicion whatsoever strong for grave doubt cannot take the place of proof. The prosecution is required to prove its case by leading cogent and convincing evidence and the statement of PW1 Balbir Singh complainant proved that accused were named in his supplementary statement PW1B on the basis of rumour.

10. The alleged recoveries from accused and CCL are not equivalent to their confession to commission of offence. As per report of Ex. PX of FSL, four exhibits were deposited i.e. (1.)one dirty white *parna*, (2.) one multi coloured printed cloth piece,(3.) one wooden *danda* described as *Neem danda*, (4) one bamboo *danda*.

Blood was detected on all the four Exhibits.

The report Ex. PX does not reveal that blood found on *danda* Ex.3 and another *danda* Ex.4 matches with the blood found on the *parna* Ex.1 and Cloth piece/*chaddar* Ex.2.

Moreover, the *dandas* deposited in the FSL were disintegrated.

Therefore, the alleged recoveries of *dandas* effected from accused Mohit and Deepak could not be connected with the blood of deceased or with the blood found on the clothes of deceased.

The alleged recoveries from the accused were rightly ignored by the learned trial Court for the purpose of rendering the judgment of conviction and to pass a judgment of guilt against the accused and CCL.



There is no alleged extra judicial confession of accused and CCL. There is no witness who could have seen the accused and CCL in the company of deceased lastly.

The implication of accused and CCL is primarily the on the basis of suspicion without any cogent and convincing evidence.

The accused and CCL were nominated challaned and tried on the basis of mere rumour and during trial also the prosecution failed to bring on record cogent and convincing evidence to link the accused with the alleged offence of the murder of deceased Ramdhari or to prove on record complete chain of circumstances from which the conclusion of hypothesis of guilt of accused and CCL, contrary to the innocence of the accused and CCL may be drawn.

11. In view of the above discussion, we find no merit in the applications filed by the applicant-complainant seeking leave to appeal. The same are hereby dismissed and the judgments of acquittal dated 30.11.2018 passed by the learned Additional Sessions Judge, Sonipat, are hereby upheld.

(MANJARI NEHRU KAUL)
JUDGE

(RAMESH KUMARI)
JUDGE

September 04, 2025
Poonam Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No