



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRA-D-768-DB-2004 (O&M)

Date of decision: 30.07.2025

Satnam Singh @ Kaka and others

.....Appellants

Versus

State of Punjab

.....Respondent

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

Present : Proceedings qua appellant No.1 stand abated
vide order dated 24.04.2025.

Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate and
Ms. Kashish Sahni, Advocate
for appellants No.2 and 3.

Mr. H.S. Deol, Sr. DAG, Punjab and
Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The instant Criminal Appeal is directed against the judgement of conviction dated 11.08.2004 and order of sentence dated 14.08.2004 passed by learned Sessions Judge, Kapurthala, whereby appellants, Satnam Singh @ Kaka, Gurvinder Singh @ Ginda and Rajinder Singh @ Kuku, were convicted under Sections 302 read with Section 34, 324 and 449 of the IPC, for causing the death of Sanjiv Kumar (hereinafter referred to as 'deceased') and sentenced accordingly.

2. The prosecution case as unfolded through the testimony of PW-1 Suresh Sharma (complainant and brother of the deceased), was that on the night of 10.10.2001 at about 10.15 p.m., while he and the deceased were returning from their factory, the appellants-accused



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(hereinafter referred to as 'accused') intercepted them. The complainant alleged that accused Gurvinder Singh @ Ginda and Rajinder Singh @ Kuku caught hold of the deceased while accused Satnam Singh @ Kaka inflicted a fatal injury with a *sua* (pointed tool) to the temporal region of the deceased, resulting in his death.

3. On recording the statement of PW-1 Suresh Sharma, PW-12 ASI Tarsem Singh registered FIR (Ex.PA/1) and forwarded the special report (Ex.PA/2) to the Illaqa Magistrate. On 12.10.2001, at the instance of PW-1 Suresh Sharma, rough site plan (Ex.PAA) was prepared by PW-15 ASI Amar Nath and scaled site plan (Ex.PX) by PW-10 Pradeep Dugal.

4. A brick allegedly thrown by accused Satnam Singh alias Kaka was seized and converted into a recovery memo (Ex.PE). This brick was produced by eyewitness Nannhe Lal.

5. On completion of investigation, challan was presented against the accused. The case was thereafter committed to the Court of Sessions. Since a *prima facie* case was made out against the accused, they were charged under Sections 302/324/34 of the IPC to which they all pleaded not guilty and claimed trial.

6. In support of its case, the prosecution examined PW-1 Suresh Sharma (complainant). PW-1 Suresh Sharma detailed the assault, the weapon used, and the entire sequence of events. PW-1 also claimed to have accompanied the deceased who till that time was alive, to Civil Hospital, Phagwara. The prosecution gave up Pws Gulzar Gupta, Gurmail Singh, Inspector, Balbir Singh Constable, and Jai Dev



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Sudhir being unnecessary. Furthermore, Pws Sanjiv Kumar and Nanneh Lal were given up as having being won over by the accused.

7. On the basis of the evidence led, the learned Trial Court convicted the accused and sentenced them as follows:-

Name of the accused	Offence(s) under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
Satnam Singh Kaka @	302 of the IPC	Imprisonment for life	Rs.2,000/-	RI for 01 month
	324 of the IPC	RI for 02 years	Rs.1,000/-	RI for 01 month
	449 of the IPC	RI for 10 years	Rs.2,000/-	RI for 01 month
Gurvinder Singh @ Ginda	302 read with Section 34 of the IPC	Imprisonment for life	Rs.2,000/-	RI for 01 month
	324 read with Section 34 of the IPC	RI for 1½ years	Rs.1,000/-	RI for 01 month
	449 of the IPC	RI for 10 years	Rs.2,000/-	RI for 01 month
Rajinder Singh @ Kuku	302 read with Section 34 of the IPC	Imprisonment for life	Rs.2,000/-	RI for 01 month
	324 read with Section 34 of the IPC	RI for 1½ years	Rs.1,000/-	RI for 01 month
	449 of the IPC	RI for 10 years	Rs.2,000/-	RI for 01 month

Submissions on Behalf of the Accused

8. Learned senior counsel for the accused has assailed their conviction on multiple grounds which merit detailed discussion.

9. It was contended by the learned senior counsel that the prosecution case is riddled with glaring inconsistencies, procedural lapses and evidentiary infirmities, each of which severely undermines the credibility of the prosecution's version. Learned senior counsel emphasised that as far as appellants, Gurvinder Singh @ Ginda and Rajinder Singh @ Kuku are concerned, no specific or fatal injury had



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been attributed to them, and their alleged role was limited merely to catching hold of the deceased. This act, standing alone, would not be sufficient to infer participation in a common intention to commit murder, especially in the absence of any prior concert or premeditated plan.

10. A major thrust of the arguments of the learned senior counsel is on the inordinate and unexplained delay in the lodging of the FIR. Learned senior counsel has argued that although the injured (deceased) was examined at 10.45 p.m. on 10.10.2001 and PW-15 ASI Amar Nath was admittedly present at the hospital at that time along with the complainant, PW-1 Suresh Sharma, strangely the FIR was registered only at 12.40 p.m. on 12.10.2001. No plausible explanation was offered for this delay of nearly 38 hours, when it was not the case of the prosecution that the complainant was declared unfit to get his statement recorded. Such delay, it was urged, smacks of afterthought and post-incident deliberation and seriously impairs the authenticity and spontaneity of the FIR.

11. Furthermore, the learned senior counsel drew the attention to the contradictions between the medical and ocular evidence. While drawing the attention of this Court to the testimony of PW-4, Dr. Baldev Raj, who conducted the postmortem examination, the learned senior counsel asserted that this doctor opined unambiguously that the fatal injury was caused by a blunt weapon. Likewise, PW-2, Dr. Daljit Singh Bains, who initially examined the deceased at the hospital on his admission, explicitly ruled out the possibility of the injury having been



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caused by a *sua* (a pointed penetrating weapon) as alleged by the prosecution. It was argued that these opinions, both unequivocal and medically consistent, directly contradicted the claim of the prosecution that the fatal injury was inflicted with a *sua*. Furthermore, the learned senior counsel also asserted that the failure of the prosecution to recover the alleged weapon (*sua*) or link it forensically further weakened its case moreso, when the *sua* is said to have pierced the temporal region of the deceased, which was highly implausible in the light of the anatomical structure and location of the injury as alleged.

12. It was also argued that the testimony of PW-1 Suresh Sharma i.e. the complainant and the only eyewitness, was marred by glaring improvements and material inconsistencies. His version before the learned Trial Court deviated substantially from the FIR, particularly with regard to the role of the accused, the sequence of events, and even the introduction of new elements, such as the alleged *lalkara*, which found no mention in earlier statements. His conduct—especially his failure to report the incident to police officials who were admittedly present at the hospital—was unnatural and highly suspicious. Learned senior counsel, therefore, asserted that the testimony of PW-1 Suresh Sharma could not be accepted without independent corroboration.

13. It was lastly argued that the alleged motive for the crime, namely, a dispute over shutting down the factory of the deceased, was neither substantiated by any documentary evidence nor corroborated by any independent witness. No prior complaint or record of dispute was produced.

**Submissions on Behalf of the State**

14. Learned State counsel, on the other hand, defended the conviction of the accused by asserting that the acts of the accused-appellants were committed in furtherance of their common intention. It was contended that accused-appellants Gurvinder Singh @ Ginda and Rajinder Singh @ Kuku had intentionally restrained the deceased, enabling accused Satnam Singh @ Kaka to inflict the fatal blow. Learned State counsel also submitted that PW-1 Suresh Sharma, while stepping into the witness box, supported the case of the prosecution in its entirety and even if there were some contradictions or improvements, they were minor in nature and would not in any manner adversely affect the case of the prosecution.

15. While the learned State counsel did not seriously dispute the inconsistency between the ocular version and the medical evidence—particularly the opinion of the doctor ruling out a sharp weapon—it was urged that the presence of the complainant at the hospital and his testimony supporting the prosecution case, was sufficient to sustain the conviction. It was further submitted that the non-examination of another eyewitness, Nannhe Lal, was a result of this witness being won over by the accused.

Findings of the Court

16. Upon careful perusal of the evidence on record and close evaluation of the rival submissions, we have no hesitation that the case of the prosecution is riddled with glaring contradictions, inconsistencies, and omissions which strike at the root of the



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conviction.

17. The occurrence took place at about 10.15 p.m. on 10.10.2001, and the injured (deceased) was examined at 10.45 p.m. the same night. Yet, the FIR was lodged only at 12.40 p.m. on 12.10.2001, after an unexplained delay of nearly 38 hours. This is not a case where the identity of the accused was unknown or where the complainant, an alleged eyewitness, after being injured in the occurrence, was incapacitated and unfit to make a statement. PW-15 ASI Amar Nath reached the hospital pursuant to receipt of information about the admission of the deceased; both the deceased and the complainant were present in the hospital when he reached there. No explanation whatsoever has been offered as to why no statement was recorded or case registered immediately.

18. Such unexplained delay in lodging the FIR assumes critical importance. It needs to be reiterated that a First Information Report (FIR) not lodged promptly gives rise to suspicion that the prosecution story is an afterthought and an improved version. The delay in the present case is not merely procedural but appears to be the result of deliberation and preparation, gravely undermining the credibility of the prosecution's version.

19. Even assuming trauma or emotional distress, the delay is excessive and unexplained. Further, his testimony is marked by material improvements—including the addition of a *lalkara* by the accused, never mentioned at the first instance in the FIR or in any earlier statements. It needs to be cautioned that improvements made by



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witnesses during trial must be carefully scrutinized, particularly where the witness is closely related to the deceased. Here, the conduct of PW-1 Suresh Sharma, is not just unnatural but calls into question the very foundation of the case of the prosecution.

20. Furthermore, the post-mortem report (Ex.PB), prepared by PW-4 Dr. Baldev Raj clearly opines that the injuries were caused by a blunt weapon. Likewise, PW-2 Dr. Daljit Singh Bains, who initially examined the deceased upon his admission in the hospital, also deposed during cross-examinations that the injuries could not have been caused by a *sua*. This directly contradicts the prosecution's theory that a *sua*, which is a sharp piercing tool, was used by the accused to inflict fatal injuries on the deceased.

21. The learned Trial Court rejected the expert medical opinion without assigning any cogent reason or relying on any contrary medical expert evidence. The Trial Court ought to have harmonized the medical evidence with the ocular evidence unless the medical testimony completely ruled out the ocular version. In the present case, the contradiction is not minor but fundamental—the weapon of offence itself is in serious doubt.

22. Moreover, the recovery of the weapon, its forensic connection to the crime, or any blood-stained article linking it to the accused, is entirely absent—further weakening the case of the prosecution.

23. Accused-appellants Gurvinder Singh @ Ginda and Rajinder Singh @ Kuku had not been attributed any overt-act except



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for allegedly restraining the deceased. There is no evidence that they shared any prior plan or common intention with co-accused Satnam Singh to kill the deceased. Their mere presence at the scene or passive involvement cannot lead to constructive liability under Section 34 IPC.

24. To invoke Section 34 IPC, prosecution must prove pre-concert or meeting of minds; mere presence or passive role is insufficient. The prosecution in the present case has utterly failed to prove such a meeting of minds or shared design.

25. The site plan prepared (Ex.PX) by PW-15 ASI Amar Nath did not mention any bloodstains at the place of alleged stabbing. Even the motive projected by the prosecution—pertaining to business rivalry—is vague and unsupported by any documentary or corroborative evidence.

26. The evidence, therefore, is based entirely on the testimony of a closely interested witness, contradicted by medical evidence, unsupported by forensics, and devoid of any credible corroboration.

27. The cumulative impact of these infirmities—the delayed FIR, contradictory medical and ocular evidence, unreliable testimony of the eyewitness, lack of independent corroboration, and absence of proof of common intention—completely erodes the case of the prosecution.

28. In a criminal trial, the burden rests firmly upon the prosecution to prove its case beyond reasonable doubt. The law does not countenance conviction based on loosely knit evidence—with broken and missing links all throughout like in the instant case.

29. In view of the foregoing discussion, we are of the



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considered opinion that the prosecution has failed to prove its case beyond reasonable doubt and the material on record engenders significant doubt, which must necessarily operate to the benefit of the accused. Accordingly, the instant appeal is hereby allowed and the impugned judgment of conviction and order of sentence are hereby set aside. The accused-appellants are acquitted of the charges framed against them.

30. Pending applications, if any, stand disposed of.

(MANJARI NEHRU KAUL)
JUDGE

(H.S. GREWAL)
JUDGE

30.07.2025

Vinay

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