



CRA-D-81-DB-2004 (O&M)

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

**CRA-D-81-DB-2004 (O&M)
Date of Decision : 15.05.2025**

HARJINDER KAUR

.... Appellant

VERSUS

STATE OF PUNJAB

...Respondent

CRA-D-743-DB-2004 (O&M)

BALDEV SINGH

.... Appellant

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Ekta Thakur, Advocate (through V.C.)
for the appellant in CRA-D-81-DB-2004.

Mr. Rohit Singh, Advocate with
Mr. Narinder Singh, Amicus Curiae
for the appellant in CRA-D-743-DB-2004.

Mr. Siddharth Attri, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

This judgment shall dispose of two criminal appeals i.e. CRA-D-81-DB-2004 titled as Harjinder Kaur Vs. State of Punjab and CRA-D-743-2004 titled as Baldev Singh Versus State of Punjab as the same are arising out of the same FIR. However, for the sake of convenience the facts have been taken from CRA-D-81-DB-2004.

2. The FIR was registered on 13.10.2000, the judgment of conviction and order of sentence passed by the Addl. Sessions Judge (Adhoc), Patiala is dated 11.12.2003, the appeal was filed on 19.01.2004 and



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the matter is being taken up for hearing now i.e. after a period of more than 24 years from the date of registration of the FIR.

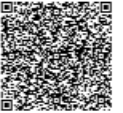
3. The brief facts of this case are that Om Parkash s/o Joginder Singh suffered his statement Ex.PG before the police on which endst. Ex.PG/1 was made and this case was registered u/s 302 read with 34 IPC. According to Om Parkash complainant they were three brothers and two sisters. His brothers were Balbir Singh and Rachhpal Singh (deceased). About 18/20 years ago his brother Rachhpal Singh deceased was married with accused Harjinder Kaur daughter of Gulzar Singh of Jai Nagar P.S. Sadar, Rajpura. Out of this marriage three children were born including one daughter and two sons. Rachhpal Singh had been living separately from them since 15/16 years prior to the occurrence. Rachhpal Singh deceased was a Sarpanch of the village and was employed at Milk Time Factory. Accused Baldev Singh s/o Kundan Singh was residing as a tenant in the house of Rachhpal Singh. Baldev Singh accused had developed illicit relations with Harjinder Kaur W/o Rachhpal Singh since long which fact was known to the whole village. Because of this reason the complainant along with his other family members had boycotted the family of Rachhpal Singh. In the night intervening 12/13.10.2000 at about 12 0'clock his brother Rachhpal Singh had raised an alarm of 'Bachao- Bachao'. On hearing this, the complainant had gone on the roof from the stair-case and from there he entered the courtyard of Rachhpal Singh. In the meanwhile his other brother Balbir Singh and father Joginder Singh also came and he opened the gate of Rachhpal Singh's house from inside. On this, his father Joginder Singh and



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brother Balbir Singh came in the courtyard and found that his brother's wife had caught hold of the long hair of Rachhpal Singh with her left hand and she had a rod in her right hand, Baldev Singh accused had a stick in his hand. Then Harjinder Kaur gave a stick blow to Rachhpal Singh on his left thigh and then Baldev Singh accused gave a stick blow on the back of the right shoulder of Rachhpal Singh. The complainant intervened and his brother's wife namely Harjinder Kaur stated that it was their family matter and the complainant party were nobody to interfere. Then Harjinder Kaur gave a stick blow to Balbir Singh on his left elbow and then she gave another stick blow on the back of his father right shoulder. When the occurrence ended all of them went to their respective houses. At about 6.00 AM in the morning the complainant heard the weeping noise of his brother's wife namely Harjinder Kaur. On this, he along with his neighbour Amarjit Singh s/o Hari Ram went to the house of Rachhpal Singh and found his brother Rachhpal Singh lying dead on the cot. In the meanwhile his other brother Balbir Singh and father Joginder Singh along with other persons came there. Deceased Rachhpal Singh had been murdered by his wife Harjinder Kaur accused and co-accused Baldev Singh tenant due to their illicit relationship with each other and to clear their path as he used to interfere in their illicit relations. His brother Rachhpal Singh had either been killed by suffocating or by strangulation and Baldev Singh tenant was missing from his room. The dead body of Rachhpal Singh was kept under the supervision of his father Joginder Singh and brother Balbir Singh and while he was going to lodge the report, he came across the police party to whom



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he had made the statement EX. PG. On the basis of this statement Ex. PG an endst. EX. PG/1 was made by Jassa Singh SHO PW 10.

4. Jassa Singh PW10 recorded the above statement Ex. PG on which the case was registered and he reached the spot and found the dead body on the cot. He prepared inquest report Ex. PI and then he sent a request for post-mortem examination Ex. PI/3. He inspected the scene of the crime and found broken pieces of Bangles of Coca-cola colour. Four pieces were lifted from the bed of Rachhpal Singh deceased and four pieces were lifted from the floor and same were sealed and taken to possession vide memo Ex.PJ. He recovered human hair from the right fist of the dead body and said hair was put into a plastic box and it was sealed with the seal JS and taken to possession vide memo Ex. PK. One broken ladies watch with a chain was also taken into possession from the bed vide memo EX. PL after sealing the same. One shirt lying under the head of the dead body was also taken into possession vide memo Ex. PM after sealing the same. One black coloured ladies hair pin was also taken into possession vide memo Ex.PN. One turban was also taken into possession vide memo Ex. PO, besides one coloured shirt button vide memo Ex. PP.

5. On 14.10.2000, one parcel of clothes of the deceased returned by the Doctor after post-mortem examination was handed over to him by C. Sajjan Singh which was taken into possession vide memo EX. PQ. ASI Mam Raj took a sample of hair of Baldev Singh accused and put it into a parcel in the presence of JMIC, Rajpura and it was handed over to the ASI vide memo Ex. PR.

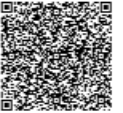
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6. On 19.10.2000, accused Harjinder Kaur suffered a disclosure statement that after committing the murder of her husband, she had broken the green glass bangles which she was wearing and kept the same in a box wrapped in a green dupatta. She had strangled her husband with the same Green Dupatta and could get the same recovered. She further stated that she had concealed a stick behind the box. Her statement Ex. PS was recorded. She got recovered said articles in furtherance of her statement Ex. PS which were taken into possession vide memo Ex. PS/1 after sealing the same.

7. On 17.10.2000 accused Baldev Singh is also alleged to have been arrested. He also suffered a disclosure statement Ex.PT before the investigating officer about the concealment of the shirt and he got recovered the same which was taken into possession vide memo EX. PT/1.

8. On conclusion of the investigation the challan was submitted and on commitment both the accused were charge-sheeted U/s 323 read with Section 34 IPC to which they pleaded not guilty and claimed trial.

9. In order to prove its case, the prosecution examined Dr. Daler Singh-PW1, HC Sajjan Singh-PW2, Doctor Darshan Singh Sidhu-PW3, CII Surinder Singh-PW4, Ominderdeep Singh Walia Draftsman-PW5, Manjit Kaur-PW6, daughter of late Rachhpal Singh, a child witness, HC Shamsher Singh-PW7, Om Parkash-PW8, C. Jujhar Singh-PW9, Inspector Jassa Singh Investigating officer-PW10, Sanjiv Kumar Singla Stenographer of Addl. District and Sessions Judge Patiala-PW11 and Dr. Anju Khurana, who conducted the post-mortem examination of Rachhpal Singh-PW12.



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10. The gist of the statements of the relevant witnesses are as under:-

PW1-Dr. Daler Singh (SMO) stated that he medico-legally examined both Baldev Singh and Harjinder Kaur twice.

PW3 Dr. Darshan Singh Sidhu stated that on 14.10.2000 he medico-legally examined Balbir Singh S/o Joginder Singh and found the following injuries:-

“1. Contusion 7 x 3 x 2 cm on the left side of forearm close to elbow joint. Tenderness was present.”

PW6-Manjit Kaur D/o Rachhpal Singh aged about 12-13 years stated that they were three brothers and sisters and she was the eldest. Accused Baldev Singh was staying in their house as tenant and would take meals at their house. Harjinder Kaur used to wash his clothes as well. On the asking of her uncles, Baldev Singh was asked to leave the house on the day of Rakshabandan one year earlier but he was brought back to their house by her mother Harjinder Kaur. For this reason, her uncle Om Parkash, Balbir Singh and grandfather Joginder Singh stopped talking to them (family of this witness). On the night intervening 12/13.10.2000 her father and Baldev Singh took liquor together while her mother served them food. Thereafter, her father told Baldev Singh to go to his room as it was getting late but Baldev Singh did not leave. On this, her father got angry and gave slaps to Baldev Singh after which he went away to his room. Her mother locked herself in another room and under the impression that she may commit suicide her father broke open the door. Her mother came out of the room and caught hold of her father from his hair. Then Baldev Singh and her mother



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started giving him fist blows. Her father raised a cry on which her uncles Om Parkash and Balbir Singh along her grandfather Joginder Singh came to the spot. On being asked to stop, her mother stated that it was their personal matter and they ought not to interfere. Then her mother gave a blow with a stick to her uncle Balbir Singh after which her uncles left the spot whereas Baldev Singh went back to his room. Later that night, she heard her father stating that her mother was strangulating him. She saw Baldev Singh present in the room at that time who had kept a hand on her father's eye and had also caught hold of him from his hair whereas her mother had put a dupatta around the neck of her father and was pulling the same. Her mother warned her that if she told about the occurrence to anyone, she would meet the same fate. Thereafter, Baldev Singh went back to his room and she kept sleeping there. In the morning her mother woke up and stated that something had happened to her father who was lying dead. Her mother started crying loudly after which her uncles reached the house along with her grandfather. Her mother slipped away from the house whereas Baldev Singh slipped away at night. In cross-examination, she denied that there was property dispute between her father and his brothers or that Balbir Singh and Om Parkash had inflicted injuries upon her father. She also admitted that they were residing with their uncle Om Parkash who was taking care of them.

PW8-Om Parkash/complainant broadly deposed in line with his statement leading to the registration of the FIR and it is not being reproduced again for the sake of brevity. In cross-examination, he denied the



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suggestion that they had murdered Rachhpal Singh and had falsely involved the accused.

PW10-Inspector Jassa Singh deposed as to the different aspects of the investigation. He recovered human hair from the right fist of the dead body along with other articles such as broken pieces of bangles, ladies hair pin and turban etc.

PW11-Sanjiv Kumar Singla, Stenographer was examined with respect to the signatures of Mrs. Harpreet Kaur, JMIC, Rajpura on the statement under Section 164 Cr.P.C. of Manjit Kaur (PW6).

PW12-Dr. Anju Khurana stated that she along with Dr. I.C. Taneja had conducted the postmortem on the dead body of Rachhpal Singh and had found the following injuries:-

“Multiple multi sized bruises reddish bluish in colour on the right side of the neck and its lateral side, as well as on the interior surface of the left side of the neck.

It was a body of middle aged Sikh male with long hair on the skull with beard and moustache on the face lying on its back. His eyes were closed and mouth was also closed. His face and upper part of the neck is cyanosed. His lips tongue and nails are cyanosed.

Rigor mortis post mortem staining was present. He was wearing black pant with black leather belt, blue underwear. Clothes were not stained with blood.

The following injures were present:-



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1. A bruise measuring 3 x 2 cms over the back of right side of upper chest.

Just below the right posterior axillary fold.

2. On opening the neck, underlying muscles were lacerated and haemorrhagic, vessels on both side of the neck were ruptured and more so on the right side of the neck. Sternal end of right clavicles was also fractured.

3. There was fracture of thyroid bone. There was also fracture of Tracheal ring was present.

Lungs were congested and emphysematous. On cut section, blood stained frothy fluid comes out.

Right chamber was full of blood and left chamber was empty. Heart was healthy.

Stomach contained 30 ounces of semi digested food. Small intestines were healthy and contained liquid chyme. Large intestines were healthy and contained fecal matter and gases.

Liver, spleen kidneys bladder and organs of external and internal generation were healthy.

In our opinion all the injuries were ante mortem in nature and were sufficient to cause death in the ordinary course of nature. Death in this case was due to asphyxia as a result of strangulation.

Stitched dead body of deceased was handed over to police after post mortem. Belongings of the deceased in a sealed



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packet, carbon copy of PMR and police paper No.1 to 16 duly signed by us were entrusted to HC Sajjan Singh.

Time between injury and death was immediate and between death and post mortem within 12 to 36 hours.

Ex.PU is the correct carbon copy of the original postmortem.

It bears my signature and the signature of Dr. I.C. Taneja.

Police request is Ex.PI/3. It also bears my initials and of Dr.

I.C. Taneja at point A. Application was marked by Sr.

Medical Officer, A.P. Jain Hospital, Rajpura. I also initialled

the inquest report Ex.PI. Dr. Taneja also initialled the same.”

11. When confronted with above evidence accused Baldev Singh denied the allegations and claimed innocence. He raised the plea that the witnesses were brothers and relatives of the deceased and he had been falsely implicated in the case. The brothers of the deceased had a family dispute regarding their land. He was innocent and he and his other family members belonged to the Congress Party and complainant party belonged to the Akali Party. Therefore, he had been falsely implicated at the instance of Capt. Kanwaljit Singh.

12. Accused Harjinder Kaur also denied the allegations and claimed innocence in her statement u/s 313 Cr.P.C. She stated that PW Manjit Kaur was under the influence of OM Parkash, Balbir Singh and Joginder Singh. Due to a Civil dispute with her deceased husband prior to the occurrence she wanted to take the property of her husband. Therefore, there were strained relations with Om Parkash and Balbir Singh and they



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had deposed against her and had compelled Manjit Kaur to depose against her. Manjit Kaur was tutored by the counsel engaged by Om Parkash and Balbir Singh and she was under the influence of other PWs. The Investigating officer was approached by Om Parkash and Balbir Singh in this case to falsely implicate her. She was innocent and had no relation with Baldev Singh co-accused nor was he known to her and was he a tenant. The story had been created to project a false motive by Om Parkash etc. No such occurrence took place as alleged by the PWs and in fact there was a dispute of property between Om Parkash, Balbir Singh and Joginder Singh with her deceased husband. Om Parkash and Balbir Singh had killed her husband at some unknown place in an unknown manner and she had been falsely implicated.

13. Based on the evidence led, the accused came to be convicted and sentenced by the Addl. Sessions Judge (Adhoc), Patiala vide judgment and order of sentence dated 11.12.2003 as under:-

Convicts	Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
Baldev Singh	302/34 IPC	Imprisonment for life	Rs.1000/-	RI for 06 months
Harjinder Kaur	302/34 IPC	Imprisonment for life	Rs.1000/-	RI for 06 months

14. It is the aforementioned judgment, which is under challenge, in the present appeals.

15. The learned counsels for the appellants and the Amicus Curiae contend that the prosecution case hinges primarily on the testimony of



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Manjit Kaur (PW6), a child witness and daughter of the deceased and accused Harjinder Kaur. The falsity of her statement is borne out from the fact that she had stated that the accused Baldev Singh and her father deceased Rachhpal Singh were drinking but no such evidence of the alleged drinking was found during the course of the investigation. The evidence of such a witness must be scrutinized due care and caution as the possibility of tutoring or influence cannot be ruled out. She being in the custody and under the influence of the complainant's family was highly susceptible to tutoring. This factor has not been considered by the Trial Court while convicting the accused. They contend that there is a significant and unexplained delay of approximately 12 hours in the registration of the FIR despite the alleged occurrence having taken place only 2 kms from the Police Station. Therefore, deliberations and concoctions and the consequential false implication of the accused cannot be ruled out as the delay in the registration of the FIR has not been satisfactorily explained. They further contend that there is motive for the false implication of the accused on account of a property disputes between the parties. They, thus, contend that the impugned judgment ought to be set aside and the appellants be acquitted of the charges framed against them.

16. The learned counsel for the State, on the other hand, contends that though Manjit Kaur (PW6) is a child witness, her version cannot be faulted. She is the daughter of accused Harjinder Kaur and deceased Rachhpal Singh and there is absolutely no reason for her to falsely implicate the accused who is none other than her mother. In fact, her statement under



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Section 161 Cr.P.C. was recorded on 13.10.2000 and thereafter, her statement was recorded by the Illaqa Magistrate on 21.11.2000. At that time, the Magistrate had satisfied herself that Manjit Kaur (PW6) was of sound mind. He contends that the evidence of PW6-Manjit Kaur is duly corroborated by the statement of the complainant/Om Parkash (PW8) which has further been corroborated from the medical evidence which shows that one Balbir Singh brother of deceased Rachhpal Singh and the complainant was also caused injuries by the accused. He further contends that there is absolutely no delay in the registration of the FIR. As per the case of the prosecution, the first occurrence of beating took place on the night intervening 12/13.10.2000 at about 12.00 AM. Thereafter, the body was discovered post 06.00 AM in the morning. The complainant/Om Parkash PW8 made a statement to the Investigating Agency at 10.30 AM, FIR came to be registered at 12.25 PM and the Special Report reached the Illaqa Magistrate at 1.25 PM. This delay, if any, cannot be said to be fatal to the prosecution case. He, thus contends that the present appeals are liable to be dismissed.

17. We have heard the learned counsel for the parties and gone through the record.

18. The argument of the accused that the deposition of PW6-Manjit Kaur being a child witness cannot be believed as the possibility of her being tutored cannot be accepted. Though, it is an established principle that child witnesses are dangerous witnesses as they are pliable and liable to be influenced easily but it is also an accepted norm that after a careful scrutiny



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of their evidence, if the Court comes to the conclusion that there is truth in the statement, there is no obstacle in the way of accepting the evidence of such a child witness.

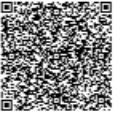
19. The Hon'ble Supreme Court in the case of *Ratansinh Dalsukhbhai Nayak Vs. State of Gujarat, 2003(4) RCR (Criminal) 970,*

held as under:-

"6. Pivotal submission of the appellant is regarding acceptability of PW-11's evidence. Age of the witness during examination was taken to be about 10 years. Indian Evidence Act, 1872 (in short the 'Evidence Act') does not prescribe by particular age as determinative factor to treat a witness to be a competent one. On the contrary, Section 118 of the Evidence Act envisages that all persons shall be competent to testify, unless the Court considers that they are prevented from understanding the questions, because of tender years, extreme old age, disease whether of mind, or any other cause of the same kind. A child of tender age can be allowed to testify if he had intellectual capacity to understand questions and given rational answers thereto. This position was concisely stated by Brewer J. in Wheeler v. United States, (159 U.S. 523). The evidence of a child witness is not required to be reject per se; but the Court as a rule of prudence considers such evidence with close scrutiny and only on being convinced about the quality thereof and reliability can record conviction, based thereon. (See Surya Narayana v. State of Karnataka (2001(1) Supreme 1 : 2001(1) RCR (Criminal) 602 (SC)).

7. In *Dattu Ramrao Sakhare v. State of Maharashtra, (1997(5) SCC 341 : 1997(3) RCR (Criminal) 227 (SC)* it was held as follows :

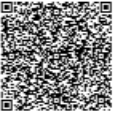
"A child witness if found competent to depose to the facts and reliable one such evidence could be the basis of conviction. In other words even in the absence of oath the evidence of a child



witness can be considered under Section 118 of the Evidence Act provided that such witness is able to understand the answers thereof. The evidence of a child witness and credibility thereof would depend upon the circumstances of each case. The only precaution which the Court should bear in mind while assessing the evidence of a child witness is that the witness must be a reliable one and his/her demeanour must be like any other competent witness and there is no likelihood of being tutored."

The decision on the question whether the child witness has sufficient intelligence primarily rest with the trial Judge who notices his manners, his apparent possession or lack of intelligence, and said Judge may resort to any examination which will tend to disclose his capacity and intelligence as well as his understanding of the obligation of an oath. The decision of the trial court may, however, be disturbed by the higher Court if from what is preserved in the records, it is clear his conclusion was erroneous. This precaution is necessary because child witnesses are amenable to tutoring and often live in a world of make beliefs. Though it is an established principle that child witnesses are dangerous witnesses as they are pliable and liable to be influenced easily, shaken and moulded, but in is also an accepted norm that if after careful scrutiny of their evidence the Court comes to the conclusion that there is an impress of truth in it, there is no obstacle in the way of accepting the evidence of a child witness.

8. The learned trial Judge has elaborately analysed the evidence of eyewitness. There is no reason as to why she would falsely implicate the accused. Nothing has been brought on record to show that she or her father had any animosity so far as the accused is concerned. The prosecution has been able to bring home its accusations beyond shadow of doubt. Further, the trial court on careful examination was satisfied about child's capacity to understand and to give rational answers. That being the position, it cannot be said that the witness (PW11) had no maturity to



understand the import of the questions put or to give rational answers. This witness was cross-examined at length and in spite thereof she had described in detail the scenario implicating the accused to be author of the crime. The answers given by the child witness would go to show that it was only repeating what somebody else asked her to say. The mere fact that the child was asked to say about the occurrence and as to what she saw, is no reason to jump to a conclusion that it amounted to tutoring and that she was deposing only as per tutoring what was not otherwise what she actually saw. The learned counsel for the accused-appellant has taken pains to point out certain discrepancies which are of verity minor and trifle nature and in no way affect the credibility of the prosecution version.

9. Evidence of PW11, the child witness has credibility which reveals a truthful approach and her evidence to put it mildly has ring of truth in it. There are no exaggerations and she has stuck to her statement made during investigating in all material particulars. That being so, the trial court and the High Court were justified in placing implicit reliance on her testimony. In addition, the evidence to recovery and the report of the Forensic Science Laboratory provide additional support to the prosecution version.”

(Emphasis supplied)

The Hon'ble Supreme Court in the case of **P. Ramesh Vs. State**

Rep by Inspector of Police, 2019(3) RCR (Criminal) 871, held as under:-

“15. In order to determine the competency of a child witness, the judge has to form her or his opinion. The judge is at the liberty to test the capacity of a child witness and no precise rule can be laid down regarding the degree of intelligence and knowledge which will render the child a competent witness. The competency of a child witness can be ascertained by questioning her/him to find out the capability to understand the occurrence witnessed and to speak the truth before the court. In criminal proceedings, a person of any age is competent to give evidence if she/he is able to (i)



understand questions put as a witness; and (ii) give such answers to the questions that can be understood. A child of tender age can be allowed to testify if she/he has the intellectual capacity to understand questions and give rational answers thereto. Dalsukhbhai Nayak v. State of Gujarat (2004) 1 SCC 64 A child becomes incompetent only in case the court considers that the child was unable to understand the questions and answer them in a coherent and comprehensible manner.[4] If the child understands the questions put to her/him and gives rational answers to those questions, it can be taken that she/he is a competent witness to be examined.

(Emphasis supplied)

The Hon'ble Supreme Court in the case of **Pradeep Vs. The**

State of Haryana, 2023(3) RCR (Criminal) 494, held as under:-

“8. It is a well-settled principle that corroboration of the testimony of a child witness is not a rule but a measure of caution and prudence. A child witness of tender age is easily susceptible to tutoring. However, that by itself is no ground to reject the evidence of a child witness. The Court must make careful scrutiny of the evidence of a child witness. The Court must apply its mind to the question whether there is a possibility of the child witness being tutored. Therefore, scrutiny of the evidence of a child witness is required to be made by the Court with care and caution.

9. Before recording evidence of a minor, it is the duty of a Judicial Officer to ask preliminary questions to him with a view to ascertain whether the minor can understand the questions put to him and is in a position to give rational answers. The Judge must be satisfied that the minor is able to understand the questions and respond to them and understands the importance of speaking the truth. Therefore, the role of the Judge who records the evidence is very crucial. He has to make a proper preliminary examination of the minor by putting appropriate questions to ascertain whether the minor is capable of understanding the questions put to him and is able to give rational



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answers. It is advisable to record the preliminary questions and answers so that the Appellate Court can go into the correctness of the opinion of the Trial Court. ”

(Emphasis supplied)

20. Coming back to the deposition of this witness, it may be pertinent to mention that the FIR was recorded on 13.10.2000. On the same very day, the statement of this witness was recorded under Section 161 Cr.P.C. Thereafter, her statement was recorded on 21.11.2000 under Section 164 Cr.P.C. after the Magistrate had satisfied that this witness was fit to give a statement as she had general intelligence and understanding. She subsequently deposed in Court as PW6. A perusal of those three statements would reveal that she has deposed quite consistently as to how the occurrence had taken place. In fact, she is the most relevant eye-witness being the eldest of the three children of deceased Rachhpal Singh and accused Harjinder Kaur. As per her statements, initially, her father and the accused tenant Baldev Singh had consumed liquor after which there was an altercation between them. Thereafter, the accused Baldev Singh had gone to his room. Her mother went into another room and bolted the same from inside. Her father thought that she would commit suicide and broke open the door. Her father and mother scuffled with each other. Thereafter, her mother and Baldev Singh assaulted her father. Her uncles Om Parkash and Balbir Singh came to the spot along with her grandfather Joginder Singh. They were also assaulted by her mother. Thereafter, her uncles and her grandfather went away from the spot whereas she along with her father and mother and other siblings went into their room to rest. Baldev Singh went into his own

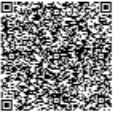


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room. She fell asleep. Later, when she got up, she heard the cries of her father and saw that Baldev Singh had caught hold of his hair while her mother was strangulating him. On seeing the occurrence, she was threatened by her mother with a similar fate in case she disclosed this fact to anyone. In the morning, her mother started weeping and shouted that her father had died upon which other people came to the spot. This statement of PW6-Manjit Kaur is clear and cogent and cannot be faulted. She has categorically explained the manner in which the occurrence had taken place. It does not stand to reason that this witness would depose against her mother on the asking of her uncles. The argument that this witness cannot be believed because her version that the accused Baldev Singh and her father were drinking has not been substantiated from any forensic analysis of there being alcohol in the viscera of the deceased cannot be accepted. Once the cause of death was established as asphyxia as a result of strangulation, there no requirement of any forensic analysis to establish alcohol in the body.

21. The statement of PW6-Manjit Kaur is duly corroborated with the statement of PW8-Om Parkash/complainant who has testified as to the illicit relationship between accused Baldev Singh and accused Harjinder Kaur the wife of his deceased brother Rachhpal Singh as also the first part of the occurrence in which Rachhpal Singh and his other brother Balbir Singh were assaulted. There is absolutely nothing to suggest in his cross-examination that there was any property dispute between all the brothers because of which they themselves had committed the murder of Rachhpal Singh and had implicated his wife and Baldev Singh. In fact, he has categorically stated



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in his cross-examination that a partition had taken place between the brothers in the presence of their father Joginder Singh.

22. The statements of PW6-Manjit Kaur and PW8/Om Parkash are duly corroborated with the report of the FSL Ex.PV/1 as per which hair recovered from the right hand of the deceased Rachhpal Singh showed similar characteristics with the hair from the scalp of accused Baldev Singh. This assumes significance because the possibility of the deceased pulling out the hair of accused Baldev Singh during their scuffle cannot be ruled out. Interestingly, the factum of hair in the right hand of the dead body finds mentioned in the inquest report Ex.PI in para 15.

23. As regards the arguments that there is a significant delay in the registration of the FIR, it may be pointed out that the first occurrence of the deceased and his brother Balbir Singh and father Joginder Singh being assaulted took place on the night intervening 12/13.10.2000 at 12.00 AM midnight. Thereafter, the subsequent occurrence of strangulation and assault took place in the presence of PW6-Manjit Kaur. It was at about 06.00 AM in the morning when accused Harjinder Kaur started crying stating that her husband had died. The complainant got recorded his statement with the police at about 10.30 AM. The FIR was registered at 12.25 PM and the special report reached the Ilaqa Magistrate at 1.25 PM. In this situation, by no stretch of imagination can it be stated that there is any delay in the registration of the FIR.

24. As regards the motive for the occurrence, it is the case of the prosecution emanating from the mouth of PW8-Om Parkash/complainant



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that the accused were in an illicit relationship with each other. PW6-Manjit Kaur, the daughter of the deceased and accused Harjinder Kaur has not stated in those many words that the accused were in a relationship with each other but a perusal of her testimony would reveal that Baldev Singh was a tenant in their house who was made to leave the said house by her uncles. Her mother had brought back Baldev Singh to their house because of which her uncles had stopped talking to them. She has also stated that Baldev Singh used to take meals at their house and her mother Harjinder Kaur would wash his clothes. Thus, it is quite clear that the relationship between both the accused was an unnatural one objected to by the extended family of the deceased and by the deceased himself which ultimately led to the commission of the offence in question. The defence of the accused that they had been falsely implicated on account of a property dispute/political rivalry stands unsubstantiated. There is absolutely nothing on record to show that the brothers had any kind of dispute amongst themselves and PW8/Om Parkash has admitted that a partition had taken place between the brothers in the presence of their father.

25. In view of the aforementioned discussion, we find that the case of the prosecution has been beyond reasonable doubt. Therefore, finding no merit in the present appeals, the same stand dismissed.

(JASJIT SINGH BEDI)
JUDGE

(GURVINDER SINGH GILL)
JUDGE

15.05.2025

Jitesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/