



**CRA-D-765-DB-2004 (O&M)**  
**and other connected cases**

-1-

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

(1) **CRA-D-765-DB-2004 (O&M)**

Ninda Singh @ Nikka Singh

... Appellant

Versus

State of Punjab

... Respondent

(2) **CRA-D-849-DB-2004 (O&M)**

Nagina Singh

... Appellant

Versus

Makhan Singh and another

... Respondents

(3) **CRR-2648-2004 (O&M)**

Makhan Singh

... Petitioner

Versus

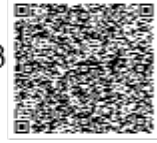
State of Punjab and others

... Respondents

**Date of decision : 11.08.2025**

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

Present:- Mr. A.P.S. Deol, Senior Advocate with  
Mr. Vishal R. Lamba, Advocate and  
Mr. Himmat Singh Deol, Advocate for the appellant  
In CRA-D-765-DB-2004.



**CRA-D-765-DB-2004 (O&M)**  
**and other connected cases**

-2-

Mr. P.S. Ahluwalia, Advocate and  
 Mr. H.S. Randhawa, Advocate for the appellant  
 In CRA-D-849-DB-2004.

Mr. Narinder Singh, Advocate for the petitioner  
 In CRR-2648-2004.

Mr. Mohit Kapoor, Senior DAG, Punjab.

\*\*\*

**H.S. Grewal, J.**

1. This order shall dispose of CRA-D-765-DB-2004, CRA-D-849-DB-2004 and CRR-2648-2004 as these are arising out of the same FIR and order of sentence. For the sake of brevity, the facts are being taken from CRA-D-765-DB-2004.

2. CRA-D-765-DB-2004 and CRA-D-849-DB-2004 have been preferred by the appellants/accused against the judgment of conviction and order of sentence dated 10.09.2004 passed by the learned Additional Sessions Judge, Mansa in case F.I.R No.109 dated 11.10.2002, registered at Police Station Bhikhi, District Mansa whereby the appellants had been convicted and sentenced to undergo imprisonment along with fine as under:-

Name of the accused/appellant	Section	Sentenced to undergo	Fine (each)	In default of payment of fine
Ninda Singh @ Nikka Singh	302/34 IPC	Life imprisonment	Rs.5,000/-	06 months RI
Nagina Singh	302 IPC	Life imprisonment	Rs.5,000/-	06 months RI

3. CRR-2648-2004 has been preferred by the complainant seeking enhancement of the sentence as well as compensation awarded by learned



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

-3-

Additional Sessions Judge, Mansa vide the aforesaid judgment and order of sentence dated 10.09.2004.

4. The case of the prosecution is that on 10.10.2002, the complainant-Makhan Singh had made a statement (Ex.PA) before Inspector/SHO Arashdeep Singh, Police Station, Bhikhi, to the effect that he is resident of village Samaon and an agriculturist by profession. On that day, he along with his brother Darshan Singh @ Mor (deceased) was going to Grain-Market Bhikhi on foot, for providing meals to their uncle-Kulwant Singh, who was guarding paddy produced in the grain market. When both of them had reached Samaon Chowk, Bhikhi, then Kundha Singh s/o Sunder Singh and Raja Singh s/o Gahila Singh met them, who were also going to grain-market, Bhikhi. They altogether were going to grain market Bhikhi, on left hand side on the katcha portion of the road and street lights were on. When at about 09:30 PM, they reached in front of the office of Market Committee, then a blue coloured Eicher tractor being driven by Nagina Singh s/o Labh Singh, came from the opposite direction and on its mudguards, Ninda Singh s/o Parshottam Singh, Manga Singh s/o Labh Singh, Labh Singh s/o Nek Singh, all residents of Samaon were sitting. After seeing the complainant party, all of them had started abusing them and raised lalkara that today Darshan and Makhan should not be allowed to go scot free and they should be taught a lesson for helping their uncle Kulwant Singh and all of them uttered that they will crush them under the tractor. Then Nagina Singh, on the asking of his companions, had driven the tractor over his brother-Darshan Singh with an intention to kill him.



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

**-4-**

Within their view, the tyres of tractor ran the body of Darshan Singh. They raised alarm of "Marta-Marta", upon which, all the accused person fled away with the tractor towards Samaon Chowk. He, Kundha Singh and Raja Singh started taking care of his brother Darshan Singh @ Mor who had passed away in their presence. The complainant stated that his brother Darshan Singh had been murdered by the accused persons at the instigation of Parshottam Singh s/o Kartar Singh. Motive behind the occurrence is that about a month back, there was an altercation in between them and Nagina Singh, Mangu Singh etc. and they abused each other but the matter was compromised with the intervention of respectables of the village. After that, Kala Singh, agricultural menial (Siri) of their uncle Kulwant Singh was beaten by Mangu Singh etc. and the matter was reported to Police Station, Bhikhi and security proceedings u/s 107/151 Cr.P.C. were conducted against Nagina Singh etc. Due to this reason, Nagina Singh had murdered his brother by running tractor over him. After leaving Kundha Singh at the spot to guard the dead body of his brother, he along with Raja Singh had gone to Police Station to lodge the report but the police had met him in the way.

5. Inspector Arashdeep Singh after recording the statement of the complainant (Ex.PA) made his endorsement (Ex.PA/1) thereunder and sent the same to the Police Station through HC Amarjit Singh, on the basis of which, formal FIR (Ex.PA/2) was recorded under Sections 302, 120-B, 148 IPC by MHC Pargat Singh. Thereafter, Inspector Arashdeep Singh along with other police officials accompanied by complainant and Raja Singh, reached at the



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

-5-

spot, called the photographer and got photographed the spot and dead body of Darshan Singh @ Mor. Inspector Arashdeep Singh, thereafter, prepared inquest report (Ex.PD), recorded the statements of witnesses u/s 174 Cr.P.C. and prepared rough site plan (Ex.PE) of the place of occurrence. He took into possession a broken Khunda. Thereafter, he had sent the dead body for post mortem examination through HC Kaur Singh and PHG Balwinder Singh along with request (Ex.PC) and other police papers including inquest report. He recorded statements of witnesses U/s 161 Cr.P.C. After the post mortem, HC Kaur Singh produced before Inspector Arashdeep Singh, a parcel containing shirt (Ex.P-1) and underwear (Ex.P-2) of the deceased and the said parcel was taken into possession vide recovery memo (Ex.PF). On return to the police station, the case property was deposited with MHC Pargat Singh with seals intact.

6. During search proceedings of the accused persons, on 23.10.2002, Inspector Arashdeep Singh along with other police officials had reached at 'T' Point, Budhlada in the revenue limits of Bhikhi, where they had seen that the appellant-Ninda Singh had been coming on tractor bearing No. PB-04A-2646. Inspector Arashdeep Singh with the help of police party had arrest appellant-Ninda Singh and took the tractor into possession vide memo (Ex.PG). He also prepared arrest memo (Ex.PH) and personal search memo (Ex.PJ) of the appellant-Ninda. On return to the Police Station, he deposited the case property with MHC. On 20.10.2002, he took possession of four photographs and four negatives (Mark-1 to Mark-8), on being produced by Pal Singh, Photographer.



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

**-6-**

After completion of necessary investigation, only accused Ninda Singh was challaned under Section 304 IPC, whereas names of other accused, namely, Mangu Singh, Nagina Singh, Labh Singh and Parshottam Singh were kept in column No. 2 of the report under Section 173 Cr.P.C.

7. Thereafter, the complainant-Makhan Singh had made a private complaint against the accused persons to implicate them under Sections 302/120-B/148/149 IPC by relying upon his version (Ex.PA). The Illaqa Magistrate after recording his preliminary evidence, had summoned all the accused, namely, Nagina Singh, Nikka Singh @ Ninda Singh, Manga Singh, Labh Singh and Parshotam Singh under Sections 302, 120-B, 148/149 of IPC vide order dated 11.02.2003.

8. The complaint case 'Makhan Singh Vs. Nagina Singh' bearing Sessions Case No.9 dated 7.6.2003 was ordered to be clubbed with the State Case titled as 'State Vs. Ninda Singh' bearing Sessions Case No.6 dated 20.2.2003 and it was ordered that evidence would be recorded in State case, which would also be read in the complaint case as well.

9. Therefore, charges under Sections 302 & 148 IPC were framed against appellant-Nagina Singh while other accused Ninda Singh, Manga Singh, Labh Singh and Parshottam Singh were charged under Sections 302/149, 148 IPC and in the alternative, charge u/s 302 IPC was framed against accused Ninda Singh and 302/149 against his co-accused against which the accused persons pleaded not guilty and claimed trial.



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

-7-

10. Learned Senior counsel for the appellant in CRA-D-765-DB-2004 submits that the trial Court had erred in convicting the appellant-Ninda Singh as there were material contradictions in the prosecution versions and the alleged motive attributed to the appellant had not been established. The conviction rests mainly on the testimonies of Makhan Singh (PW1) and Kunda Singh (PW2). However, both were not cited as eye-witnesses in the police report under Section 173(2) Cr.P.C. and were later found by the Investigating Officer to be absent at the time of the incident. The prosecution also gave up Raja Singh, a material witness, without explanation which weakens the motive aspect. Furthermore, there was an unexplained delay of over seven hours in lodging the FIR and in sending the special report to the Magistrate, indicating possible fabrication of witnesses after the incident. The only allegation against the appellant was that he sat on the tractor's mudguard and raised a lalkara, similar to co-accused Mangu Singh and Labh Singh, who had already been acquitted. He neither participated in the incident nor inflicted any injury, and thus, he is entitled for the benefit of doubt. He, therefore, prays for allowing the appeal, setting aside the impugned judgment and order of sentence qua the appellant-Ninda Singh and acquitting him from all the charges.

11. Learned counsel for the appellant in CRA-D-849-DB-2004 submits that the appellant-Nagina Singh had been falsely implicated in this case and the prosecution case is unbelievable inasmuch as there are two versions of the occurrence. As per the F.I.R. version which was registered on the statement of PW1 Makhan Singh, who was brother of Darshan Singh



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

-8-

(deceased), the appellant-Nagina Singh was driving the tractor while Ninda Singh, Manga Singh and Labh Singh were sitting on the mudguard. This version is not supported by any other eye witnesses, who were present at the place and time of occurrence i.e. near the office of the Market Committee Bhikhi on the Mansa Sunam Road. However, in the second version which was recorded on the basis of the statements of Seven Eye Witnesses by Inspector Arashdeep Singh in the morning of 11.10.2002 to the effect that it was Ninda Singh only who was driving the tractor while Darshan Singh (deceased) was attacking him with a "Khunda" and in that process, Darshan Singh came underneath the tyre of the tractor and died. This version was supported by the recovery of broken "Khunda" from the spot which was taken into possession by Inspector Arshdeep Singh from the spot. These witnesses were Raj Singh s/o Mehla Singh, (who was uncle of Makhan Singh), Nikka Singh s/o Sukhdev Singh, Balori Singh s/o Bhoora Singh, Jagdev Singh s/o Jangir Singh, Jasbir Singh @ Jaggi s/o Jaimal Singh, all residents of village Samaon and Sher Singh s/o Chand Singh, Chowkidar, Markfed Godown, who was on duty at the time of occurrence. After the investigation the police found the second version to be true and presented the challan only against Ninda Singh under Section 304 IPC while other co-accused, namely Nagina Singh (Appellant), Manga Singh, Labh Singh and Parshotam Singh were shown in column No.2 of the report under section 173 of Cr.P.C. However, Makhan Singh (complainant) filed private complaint under Sections 302/120-B/148/149 IPC, which was also committed to Court of Sessions, after recording preliminary evidence and was registered



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

**-9-**

as Sessions case No.9 of 07.06.2003. Learned counsel also submits that the evidence of two eye witnesses i.e. Makhan Singh and Khunda Singh (friend of the deceased) cannot be properly appreciated without considering the impact of the non-examination of certain material witnesses in this case i.e. seven eye-witnesses named above in the second version. Moreover, Inspector Arshdeep Singh (PW-5), who investigated this case, had admitted in his statement that according to my investigation Makhan Singh and Khunda Singh were not present at the spot and they had not seen the occurrence and had reached the spot later on alongwith other witnesses from village Samaon. PW2 Khunda Singh had made a statement to police supporting the second version with regard to seeing the dead body of Darshan Singh lying on the spot after reaching the spot while Raja Singh, Rikka Singh, Balori Singh resident of village Samaon were sitting near the dead body. Learned counsel also submits that there is a delay in lodging the FIR as well as the Special Report to the Illaqa Magistrate. The Police Station Bhikhi was only at distance of 100 yds. from the place of occurrence but the FIR was lodged after a delay of four hours and the special report reached the Illaqa Magistrate at 06:55 A.M. on 11.10.2002 at Mansa which is at a distance of 13 K.M. from Police Station Bhikhi. Thus, there is no explanation for the delay of despatch of special report to the Illaqa Magistrate which shows that the FIR was registered after summoning eye-witnesses and the FIR was *ante timed* in order to cover up the delay. It is also noticeable that the alleged tractor No. PB-04A-2646 does not belong to the appellant and is in the name of Labh Singh, who was the



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

**-10-**

registered owner and had since been acquitted by trial Court. The motive which was alleged to be established with regard to the security proceedings initiated against Nagina Singh, Labh Singh and Manga Singh at the instance of Raja Singh is not established against Darshan Singh since deceased, as Darshan Singh is not related to Raja Singh. Thus, there is no motive for Nagina Singh to commit the crime. Learned counsel, therefore, prays for allowing the appeal and setting aside the judgment of conviction as well as the order of sentence qua the appellant.

12. On the other hand, learned State counsel and the counsel for the petitioner/complainant in CRR-2648-2004 have collectively submitted that it is a case of pre-planned and cold blooded murder of Darshan Singh and the prosecution had successfully proved its case beyond reasonable doubt. They further submit that the appellants were inimical to the complainant party and had a strong motive to kill him. It is further submitted that the ocular version of PW1 Makhan Singh and PW2 Kunda Singh is trustworthy and reliable and finds due corroboration from the medical evidence of PW3 Dr. Ramesh Katodia, who had conducted the post-mortem and proved that the injuries sustained by the deceased were consistent with being crushed under the tyres of a tractor. Moreover, learned counsel for the petitioner/complainant in CRR-2648-2004 also prays for enhancement of punishment as well as the amount of fine imposed upon both the appellants. It is, therefore, submitted that there is no illegality or perversity in the judgment of the trial Court which would warrant interference by this Court and the appeals deserves to be dismissed.



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

**-11-**

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

14. In order to substantiate the charge against the appellant(s), the prosecution had examined PW1 Makhan Singh (complainant), PW2 Kunda Singh (eye witness), PW3 Dr. Ramesh Katodia, Medical Officer, PW4 Ashok Kumar, Ahlmad of S.D.M Mansa to prove Kalandra U/s 107/151 Cr.P.C. Ex.PD and PW5 Inspector Arshdeep Singh, Investigating officer. Other prosecution witnesses, namely, Pal Singh, HC Shivji Ram, MHC Pargat Singh, ASI Kulwant Singh & Atma Singh, Gurcharan Singh, Kulwant Singh & Atma Singh, were given up being unnecessary, while PWs Raja Singh, Nikka Singh, Balouri Singh, Sher Singh, Jagdev Singh, Bachan Singh, Bhola Singh, Harbans Singh, Suresh Kumar, Pritam Singh, Jasvir Singh and Bhola Singh were given up as having been won over by the appellants.

15. PW1 Makhan Singh (complainant) and PW2 Kunda Singh (eye witness) had reiterated the version given in the FIR.

16. PW3 Dr. Ramesh Katodia, Medical Officer, Civil Hospital, Mansa had deposed that on 11.10.2002, at about 11.30 a.m. he had conducted the post mortem examination on the body of Darshan Singh and he had found the following injuries:-

*“1. Diffused reddish contusion with swelling on the right side of the abdomen. The contusion was covered by multiple abrasions in an area of 20 cm x 30 cm. Marks of tyre were present on the injury. On dissection, underlying sub cutaneous tissue, muscles were congested and torn and underlying liver, spleen, both kidneys*



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

**-12-**

*and intestines ruptured. Clotted blood mixed with intestinal material was present in the peritoneal cavity.*

2. *Reddish contusion 8 cm x 6 cm in the middle of the left upper arm with its disfigurement. On dissection, muscles, vessels lacerated, bone was fractured in the middle. Clotted blood was present around the bone.*

3. *Reddish contusion 10 cm x 5 cm on the lateral side of the right upper arm in the middle.*

4. *Multiple abrasions and contusions were present on the postero lateral side of the left hip joint.”*

He further deposed that other organs were healthy. The cause of death was due to shock & haemorrhage, as a result of injuries described, which were *ante mortem* and were sufficient to cause death in the ordinary course of nature.

17. 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 also deposed that they had been falsely implicated in this case.

18. The appellant-Ninda Singh had pleaded that he has been falsely implicated in this case due to party faction in the village. The appellant-Nagina Singh had pleaded that Makhan Singh and Kunda Singh were not witnesses of occurrence. They were called later at the spot by Kala Singh. According to the Investigating Officer and report u/s 173 Cr.P.C. Raja Singh, Sher Singh, Nikka Singh, Balaur Singh and Kulwinder Singh had witnessed the occurrence and according to them, he (Nagina Singh), Mangu Singh, Labh Singh and Parshottam Singh were not present at the time of occurrence. According to them, he was not driving the tractor. Darshan Singh (deceased), who was armed



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

**-13-**

with Khunda, had assaulted the driver of tractor i.e. Ninda Singh. He also pleaded that Darshan Singh had died due to the accident.

19. 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 appellant(Nagina Singh) under Section 302 IPC while the appellant (Ninda Singh) had been convicted under Section 302/34 IPC and both were sentenced to undergo RI for life. However, other co-accused Manga Singh, Labh Singh and Parshotam Singh were acquitted of the charges.

20. After considering the rival submissions, the evidence on record and the circumstances of the case, this Court is of the view that the prosecution has not been able to prove the charge of murder under Section 302 IPC against both the appellants beyond reasonable doubt on the ground that there is a delay in lodging the FIR as well as material contradictions were found in the prosecution version.

21. As per the FIR, the alleged occurrence took place at 09:30 p.m. on 10.10.2002. The statement of Makhan Singh (complainant) was recorded at 12.30 AM on 11.10.2002. The post mortem examination on the dead body was conducted at 11:30 a.m. on 11.10.2002. According to post mortem report (Ex.PB), the time that elapsed between death and post mortem was within 6 to 24 hours. It means deceased may have died before 09.30 p.m. and occurrence might have taken place before 09.30 p.m. Further the FIR was received at 06:55 a.m. on 11.10.2002 by the Illaqa Magistrate while it was recorded at 5.00 a.m. The FIR was lodged after a considerable delay of about 7½ hours and the



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

**-14-**

special report was received by the Illaqa Magistrate the next morning, which casts serious doubt on the promptness and truthfulness of the prosecution story.

22. The version of the complainant-PW1 Makhan Singh and alleged eyewitness PW2 Kunda Singh is not trustworthy as they were not cited as eye witnesses in the police challan. Moreover, the Investigating Officer himself admitted that they were not present at the time of occurrence. The actual eyewitnesses, as per the police investigation, were never examined before the Court, which indicates that the report was not lodged promptly and it was manipulated.

23. The alleged motive is weak and insufficient to establish an intention to commit murder. Only one incident has been described by the prosecution to establish the motive. The complainant-Makhan Singh had deposed that one month prior to this incident, an altercation took place between Manga Singh, Leela Singh and Nagina Singh with the complainant party and hot words were exchanged but the matter was later compromised with the intervention of the respectables. There is no other incident regarding any dispute between the parties. Kala Singh, Siri of Kulwant Singh, was beaten by the accused and there were proceedings under Section 107/151 of Cr.P.C. against Labh Singh, Nagina Singh and Manga Singh. The dispute, if any, was between Kala Singh and the appellant-Nagina Singh and not between the deceased-Darshan Singh and the appellant-Ninda Singh. Admittedly, Darshan Singh (deceased) was living in a room in the field and used to take liquor in the day time as well. If there would have been any motive to kill the deceased, he



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

**-15-**

might have been murdered in a secluded area of his field at night and not in Abadi of Bhikhi-Market Committee office.

24. The medical evidence shows that the deceased could have survived for some time after sustaining the injuries. No effort was made to take him to the hospital and no blood was found at the spot. This raises doubts about the prosecution version. The medical opinion also indicates that such injuries could result from any heavy vehicle and not necessarily from the tractor. According to post mortem report Ex.PB, scalp, skull, vertebrae, brain, spinal cord, lungs and heart were healthy. Thus, no vital organ of the deceased was injured and the medical evidence does not corroborate the ocular evidence.

25. It is also noticeable that there were contradictory versions of the complainant and eye-witnesses. Firstly the complainant Makhan Singh had stated that appellant-Nagina Singh was driving the tractor while during investigation, the eye-witnesses had stated that appellant-Ninda Singh was driving the tractor. However, the registered owner of the tractor was Labh Singh, who had been acquitted by the trial Court. In the first version, the appellant-Ninda Singh was stated to have raised a *lalkara* and nothing adverse had been attributed to him. Therefore, there is no credible evidence to show his participation. The only allegation of sitting on the mudguard of the tractor and raising a *lalkara*, is not sufficient to sustain his conviction under Section 302/34 IPC and he is entitled to benefit of doubt.

26. Although the allegation against the appellant-Nagina Singh for driving the tractor and running over the deceased, has some support in the



**CRA-D-765-DB-2004 (O&M)  
and other connected cases**

**-16-**

evidence, but the element of deliberate intention to commit murder is not established. The incident appears to be an accident which took place in the heat of the moment without premeditation and in the absence of deliberate intention to cause death which is the essential ingredient of murder under Section 302 IPC, the conviction of appellant-Nagina Singh would be converted to Section 304 Part-II IPC.

27. Since the FIR in the present case was registered on 11.10.2002 and the appellant-Nagina Singh has been facing protracted criminal proceedings for over two decades and as per the records, the appellant-Nagina Singh has already undergone an actual sentence for over 03 years and 06 months, we are, therefore, of the considered view that the sentence already undergone by him would meet the ends of justice for the offence under Section 304 Part II IPC.

28. Consequently, the appeal i.e. CRA-D-765-DB-2004 is allowed, the conviction and sentence of appellant-Ninda Singh @ Nikka Singh is set aside and he is acquitted of all the charges by giving him the benefit of doubt.

29. Another appeal i.e. CRA-D-849-DB-2004 is disposed of by modifying the judgment of conviction and the order of sentence dated 10.09.2004 passed by the learned Additional Sessions Judge, Mansa, to the extent that Section 302 IPC will be converted into Section 304 Part II IPC and the sentence already undergone by the appellant-Nagina Singh would be adequate for the offence punishable under Section 304 Part II IPC. However, the amount of fine imposed upon the appellant shall remain the same.



**CRA-D-765-DB-2004 (O&M)**  
**and other connected cases**

-17-

30. The criminal revision petition (CRR-2648-2004) filed by the complainant for enhancement of sentence and fine/compensation is hereby dismissed.

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

**(MANJARI NEHRU KAUL)**  
**JUDGE**

**11.08.2025**  
A.Kaundal

**(H.S.GREWAL)**  
**JUDGE**

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