



**In The High Court for the States of Punjab and Haryana
At Chandigarh**

**CRA-D-260-DB-2005 (O&M)
Date of Decision:- 10.03.2025**

Narinder Singh and another ... Appellants

Versus

State of Punjab ... Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Arshdeep Singh Brar, Advocate,
Amicus Curiae, for the appellants.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

GURVINDER SINGH GILL, J.

- Appellants Narinder Singh and Inderjit Kumar assail judgment dated 04.02.2005 passed by by Sessions Judge, Ludhiana whereby they have been held guilty and sentenced as under:-

Section	Sentence
302/34 IPC	To undergo imprisonment for life and to pay a fine of Rs.10,000/- or in default thereof to undergo further R.I. for one year
201 IPC	To undergo rigorous imprisonment for two years and to pay a fine of Rs.500/- or in default thereof to undergo further R.I. for one year

- The matter arises out of FIR No. 73 dated 16.3.2003, Police Station Model Town, Ludhiana, under Sections 302, 201/34 IPC (Ex.PW-10/B), lodged on



the statement/*ruqa* (Ex.PD) of complainant Ghurbhej Singh. The translated gist of statement (Ex.PD) reads as under:

“I am a resident of above mentioned address. I have made a godown/office for storing shuttering material on Dugri road under the name and style of Ludhiana Steel Shuttering. I have employed Giana Parshad for looking after the godown since the last five years. After closing down the godown/office in the evening we leave from the said premises while Giana Parshad remains there to look after the entire premises. Today at about 10:30 AM my manager Subhash Chander Sharma informed me that the shutters of godown and office are closed and despite knocking at the shutter, there was no response from inside and that Giana Parshad was not present there. Immediately after taking Subhash Chander Sharma along I rushed to the godown and saw that Giana Parshad was not there. However, a blood stained hammer and a small dagger were lying there near his cot and blood was also seen spilled there. On suspicion we searched the entire godown and the dead body of Giana Parshad *chowkidar* was found lying on the roof of office. He had been killed on the ground floor by some unknown person during night and his dead body had been thrown on the roof so as to conceal the same. I left Subhash Chander at the spot and have come for lodging the report.

-Sd-
Gurbhej Singh Chhabra”

3. After the aforesaid statement (Ex.PD) was recorded by SI Harvinder Singh (PW-10), the same was sent to police station for registering formal FIR (Ex.PW-10/A). SI Harvinder Singh along with other police officials proceeded to the place of occurrence and conducted inquest proceedings. The dead body was sent to the hospital for post mortem examination through Head Constable Ramesh Kumar. Rough site plan was prepared. The blood found at the spot was lifted and taken into possession. A blood stained



hammer and dagger found at the spot were also taken into possession. Statements of witnesses were recorded. Accused Narinder Singh and Inderjit Kumar were arrested on 20.3.2003 and were interrogated. Accused Narinder Singh disclosed that he had kept concealed a purse containing currency notes worth Rs.1100/- and Identity Card of deceased Giana Parshad and pursuant to the said statement got the same recovered. It is also the case of prosecution that accused had made extra judicial confession before one Avtar Singh (PW-3).

4. Upon completion of investigation the police presented a challan against Narinder Singh and Inderjit Singh in the Court of learned Judicial Magistrate 1st Class, Ludhiana on 05.05.2003, who committed the case to the Court of Sessions vide order dated 19.05.2003. Charges were framed against both the accused for offence punishable under Sections 302/34 and 201 IPC on 02.06.2003 to which accused pleaded not guilty and claimed trial.
5. The prosecution in order to substantiate its case examined as many as 12 PWs. The gist of their testimonies is referred to herein under:-

PW-1 Dr. Amit Modi, Medical Officer who had conducted post mortem examination on the dead body of Giana Prashad described in detail the injuries found on the dead body and proved the post mortem report as Ex.PA. He opined that the cause of death was due to injury on the vital organ brain which was sufficient to cause death in the ordinary course of nature.



PW-2 Gurbhej Singh (complainant) on whose statement the FIR had been lodged stated in tune with the version got recorded by him in the FIR which has already been referred to in the earlier part of the judgment.

PW-3 Avtar Singh stated that he is working as a property dealer and is President of Gurudwara Charan Sho. He stated that on 19.03.2003 at about 8 PM both the accused Narinder Singh and Inderjit Kumar came to his house and confessed before him that they had a quarrel with one *gorkha* on the night of 15.3.2003 who was working as a *chowkidar* with one Ludhiana Shuttering Works at Dugri Road, Ludhiana, owned by Mr. Chhabra and that they had killed him by hitting him with a hammer on his head and chest and that they had also removed his wallet containing Rs.1100/-. PW-3 further stated that he produced both the aforesaid persons before the police the next day at about 12 Noon.

PW-4 HC Meet Ram tendered his affidavit Ex.PW-4/A in his evidence wherein he deposed that on 10.4.2003 Moharir Malkhana HC Harmit Singh handed over case property to him i.e. a parcel containing blood stained hammer, a small dagger and blood stained soil and directed him to deposit the same in the office of FSL, Chandigarh, which he accordingly deposited the same day. He further stated that as long as the said parcels remained in his custody the same were not tampered with.

PW-5 HC Ramesh Kumar tendered his affidavit Ex.PW-5/A in his evidence wherein he deposed that on 16.3.2003 he was associated with the investigating officer SI Harvinder Singh in Police Station Model Town and



that on the said day SI Harvinder Singh had handed over the dead body of Giana Parshad to him for getting the post mortem examination conducted and that he accordingly got the needful done.

PW-6 Constable Ram Saran stated that he had prepared a scaled site plan Ex.PW6/A under the instructions of Gurbhej Singh (complainant).

PW-7 ASI Manjit Singh stated that on 16.3.2003 he was associated with the investigation of the case along with SI Harvinder Singh and that during the course of investigation blood stained soil was collected from the place of occurrence and was prepared into parcel and duly sealed. He further stated with regard to recovery of blood stained iron hammer and a dagger from the spot.

PW-8 Parminder Singh stated that he was running a photography studio and had taken the pictures of the dead body and proved photographs Ex.P-2 to P-6 and negatives Ex.P-7 to P-11.

PW-9 Gurpreet Singh stated that on 22.3.2003 he was associated with the police party and that it was in his presence that Narinder Singh accused took the police party to his house and got a wallet recovered from his house which was lying concealed behind a photograph of Vishvkarma and that the said wallet contained a photograph of Giana Parshad and also currency notes worth Rs.1100/-. He further stated that he had given fresh 11 currency notes of denomination of Rs.100/- each to Giana Parshad as Giana Parshad needed the same in connection with marriage of his daughter and that Giana Parshad had also issued a receipt for the same.



PW-10 SI Harvinder Singh who is the Investigating Officer in the present case stated in detail with regard to the entire investigation conducted in the matter right from lodging of the FIR upto presentation of challan. He stated with regard to interrogation of the accused and disclosure statements made by them and the recovery effected thereof and also proved various documents and memos prepared during the course of investigation.

PW-11 HC Harmit Singh tendered his affidavit Ex.PW-11/A in evidence wherein he deposed that he was posted as Malkhana Moharrir in Police Station Model Town, Ludhiana and that on 16.3.2003 SI Harvinder Singh deposited case property in *Malkhana* including parcels containing blood stained soil, iron hammer and dagger and that on 10.4.2003 he had handed over the said parcels to HC Meet Ram directing him to deposit the same in the office of FSL and that the same were accordingly deposited on the same day itself.

PW-12 Constable Santokh Singh tendered his affidavit Ex.PW-12/A in evidence wherein he deposed that he was posted in Police Station Model Town on 16.3.2003. On said day ASI Sarwan Singh had handed special reports to him which he delivered to Illaqa Magistrate and as well as to other senior officers.

6. The prosecution tendered into evidence a report of FSL (Ex.PX) and closed its evidence. Upon conclusion of prosecution evidence, the entire evidence was put to the accused in terms of Section 313 Cr.P.C. to enable them to explain the same, but the accused denied the entire prosecution case in toto



and pleaded false implication. The accused however, did not chose to lead any evidence in their defence.

7. Learned trial Court upon considering the evidence on record found the appellants guilty of having committed offence punishable under Sections 302/34 and 201 IPC and sentenced them to undergo life imprisonment vide judgment dated 04.02.2005 which is assailed in this appeal.
8. Learned counsel for the appellants while assailing the impugned judgment submitted that it is a case of blind murder wherein there is no eye-witness and the prosecution has fabricated false evidence so as to falsely implicate the appellants. It has been submitted that the prosecution banks upon circumstantial evidence in the shape of an extra judicial confession which apart from being a weak piece of evidence is not trustworthy on account of inconsistencies regarding the time period. It has been submitted that the factum of recovery of wallet at the instance of accused Narinder Singh is nothing but an attempt on the part of prosecution to pad evidence against the accused. It has further been pointed out that while the Investigating Officer (PW-10) SI Harvinder Singh during cross-examination stated that PW-9 Gurpreet Singh had disclosed that the accused had murdered Giana Parshad, but Gurpreet Singh had not stated any such thing while in the witness box and in fact it is the complainant Gurbhej Singh who had informed the police about the murder and got his statement recorded. Learned counsel further submitted that there is even absence of any strong motive for the accused to have murdered the deceased and under these circumstances the alleged



circumstantial evidence falls way short to establish the case of the prosecution.

9. Opposing the appeal, learned State counsel submitted that having regard to the evidence led by the prosecution including the confession made by the accused before Avtar Singh (PW-3) and also the factum of recovery of blood stained hammer and dagger from the spot which was found to be stained with blood and also the recovery of wallet of deceased at the instance of accused Narinder Singh the case of the prosecution stands fully established and that there is no room for any interference in the impugned judgment.
10. This Court has considered rival submissions and have also perused the record of the case.
11. Since, it is a case of homicidal death, it is apposite to refer to the medical evidence in this regard. The prosecution examined PW-1 Dr. Amit Modi who had conducted post mortem examination on the dead body of Giana Prashad. PW-1 has proved the post mortem report as Ex.PA and described the following injuries found on the dead body of Giana Parshad:
 - “1) 8 x 6 cm lacerated wound on middle of fore head Brain matter was coming out of the wound. Portion of frontal bone was missing. Blood was present in brain tissues membranes were ruptured in the bialateral frontal region.
 2. 1 x 1 cm lacerated wound on anterior aspect of right leg.
 3. Red coloured abrasion 1 x 1 cm. Was present on the anterior aspect of right knee.
12. PW-1 Dr. Amit Modi further stated that the cause of death as per his opinion was the injury on the brain which was sufficient to cause



death in the ordinary course of nature. The aforesaid PW was cross-examined at length, but nothing substantial could be elicited during the course of his cross-examination. A perusal of injury No.1 shows that the same is in the nature of lacerated wound on the middle of forehead and brain matter was seen coming out of wound which indicates that the injury had been inflicted with some heavy object and with a great force. Such like injury could have been possible with a hammer, as is the case of the prosecution. In the absence of anything to doubt, the testimony or the opinion of the doctor, this court has no hesitation in holding that it is a case of homicidal death wherein the deceased died on account of having been hit by a heavy object with great force on his head leading to injury on his brain.

13. Admittedly, there is no eye-witness to the occurrence and the prosecution banks upon circumstantial evidence to establish its case. The said circumstantial evidence is broadly in the shape of an extra judicial confession allegedly made by accused before one Avtar Singh and also the recovery of wallet of the deceased at the instance of Narinder Singh and also the factum of recovery of blood stained weapons at the spot.
14. As far as the extra judicial confession before Avtar Singh (PW-3) is concerned, it is well accepted that an extra judicial confession is a weak type of evidence and can be used for corroborative purposes only and conviction cannot be based solely on an extra judicial confession. In the present case, while the occurrence had taken place



on the night intervening 15/16.03.2003, the FIR was lodged on 16.3.2003. It is the case of prosecution that the accused had confessed their guilt before one Avtar Singh (PW-3) on 19.3.2003, who produced them before the police in the afternoon on 20.3.2003. It has been so stated by PW-3 Avtar Singh while in the witness box. However, interestingly PW-2 Gurbhej Singh (complainant) during the course of cross-examination stated that when he had gone to the Police Station Model Town, Ludhiana on 17.3.2003 he had seen both the accused in the police station. The said statement runs in absolute contradiction of the statement of PW-3 Avtar Singh before whom the accused had allegedly confessed their guilt. Still further, PW-3 Avtar Singh deposed that the accused while confessing their guilt stated that initially when a quarrel had taken place between accused and deceased, the proprietor of godown (referred to as Chhabra) had separated them. The name of complainant as recorded in FIR/*ruqa* is Gurbhej Singh Chhabra. However, PW-2 Gurbhej Singh complainant has not stated anything regarding quarrel between accused and deceased. Under these circumstances, it is certainly unsafe to rely upon any such extra judicial confession even for the purpose of corroboration.

15. Shorn of the extra judicial confession, the prosecution is left only with the factum of recovery of a hammer and a dagger from the spot which were found to be blood stained and also the factum of alleged recovery of wallet of deceased, at the instance of accused Narinder



Singh. The existence of the aforesaid two pieces of evidence even if accepted to be there would still fall grossly short to establish the case of the prosecution.

16. We further find that there is absence of any motive, strong enough for the accused to have murdered the deceased. In a recent judgement, 2025(1)RCR(Criminal) 140 Nusrat Parween vs. State of Jharkhand, Hon'ble Supreme Court has held although proof of motive is not *sine qua non* in a case of murder but in a case based purely on circumstantial evidence, motive if properly established, assumes great significance and would definitely provide an important corroborative link in the chain of incriminating circumstances and strengthen the case of prosecution.
17. It is well settled that in a case based on circumstantial evidence, the prosecution is expected to lead sterling evidence to establish all the links in the chain of circumstantial evidence which collectively would lead to one and only one conclusion that it is the accused who had murdered the deceased.
18. The aforesaid principles have consistently been followed and have been affirmed in catena of authorities. Recently, a three Judges Bench of Hon'ble Apex Court reiterated the aforesaid position of law in 2025(1) RCR(Criminal) 12, Vishwajeet Kerba Masalkar v. State of Maharashtra, and while doing so also referred to the case of Sharad Birdhichand Sharda v. State of Maharashtra (1984) 4 SCC 116 1984 INSC 121, wherein it has been held that the following conditions must



be fulfilled before a case against an accused can be said to be fully established:

- (1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned "must or should" and not "may be" established.
- (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,
- (3) the circumstances should be of a conclusive nature and tendency,
- (4) they should exclude every possible hypothesis except the one to be proved, and
- (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused

19. The above referred five conditions are the golden principles on which any case based on circumstantial evidence would rest. It is necessary for the prosecution that the circumstances from which the conclusion of guilt is to be drawn should be fully established and the chain of evidence should be so complete that the facts so established should be totally consistent with one and only one version i.e. as regards guilt of accused.

20. In view of the discussion made above, we find that the evidence led by the prosecution falls grossly short to establish the guilt of the accused. The extra judicial confession is far from convincing and, in any case, is a weak type of evidence. The other piece of evidence which is in the shape of disclosure statement and the recovery of



wallet, blood stained hammer and blood stained dagger would not be sufficient to establish the guilt of the accused. There are various missing links leaving much to be answered on the part of the prosecution as regards the alleged guilt of the accused.

21. Having regard to the frail evidence in the present case, it is certainly unsafe to base conviction on the same. The findings of the trial Court holding the appellants guilty for having committed offence under Sections 302/34 and 201 IPC cannot sustain and deserve to be set aside. The appeal merits acceptance and is hereby accepted while setting aside the impugned judgment dated 04.02.2005. The appellants are acquitted of all the charges framed against them.

(GURVINDER SINGH GILL)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

10.03.2025

Mohan

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No