



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

104

CRA-D-693-DBA-2004 (O&amp;M)

Date of decision : 18.08.2025

State of Punjab

... Appellant

Versus

Harbans Singh and another

... Respondents

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

Present:- Mr. H.S. Deol, Sr. DAG, Punjab.

Mr. Rajeshwar Thakur, Advocate for the respondents.

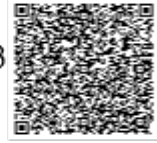
Mr. Barjinder Singh, Advocate for the complainant.

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

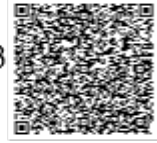
1. The present appeal has been preferred by the State against the judgment dated 09.05.2003 passed by the learned Sessions Judge, Sangrur in case F.I.R. No.141 dated 11.04.2001, under Sections 302/34 IPC, registered at Police Station Sunam, whereby the respondents had been acquitted of the charges levelled against them, by giving them the benefit of doubt.

2. The case of the prosecution is based upon the statement (Ex.PG) of the complainant-Dalbara Singh (PW-3), who is brother of Sham Singh (deceased). He had stated that he and his brother were residing together. They had a dispute with Harbans Singh (accused/respondent) with regard to the land known as Dabbarwali. On 11.04.2001, Naib Tehsildar had to visit the said land



in their village due to which the complainant-Dalbara Singh, Sham Singh (deceased) and Hari Singh (PW4) were waiting at the Dabbarwali fields. At about 05:00 P.M., Harbans Singh and Sukhpal Singh (accused/respondents) came there in a jeep. They were armed with *kirpans*. Harbans Singh had raised *lalkara* to teach them a lesson for claiming the said land. At that time, Sham Singh (deceased) was standing in the pahi whereas Darbara Singh and Hari Singh were at a distance of 8 to 10 karams from him. Harbans Singh had given a kirpan blow on the back side of Sham Singh while Sukhpal Singh had given a kirpan blow on the back side of his right shoulder upon which Sham Singh fell down on the ground. Sukhpal Singh had also given 03 blows with kirpan on the forehead of Sham Singh. Harbans Singh (accused/respondent No.1) caused kirpan blow on the left elbow whereas Sukhpal Singh (accused/respondent No.2) also caused another kirpan blow to Sham Singh. Harbans Singh caused a kirpan blow on his left palm due to which Sham Singh was withering with pain and turned his face downwards. The accused persons had also caused one blow each on his back. When the complainant and Hari Singh had raised hue and cry, both the accused/respondents fled away in a jeep alongwith their weapons. Sham Singh died at the spot. Hari Singh (PW4) was left to guard the dead body whereas the complainant-Darbara Singh alongwith Gurchran Singh went to the police station to lodge the report.

3. SI Rajwinder Singh (PW10) met them at the Lehra Octroi post, Sunam whereby the complainant-Darbara Singh had recorded his statement Ex.PG to the police which was forwarded to the police station with the endst. Ex.PG/1 and the present case was registered.

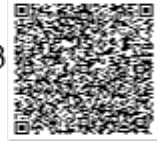


4. Thereafter, SI Rajwinder Singh (PW10) came to the spot, prepared the rough site plan and the inquest report. He lifted the blood stained earth and grass from the spot which was put in a container and was sealed with seal bearing impression 'RS' and was taken into possession. The dead body was sent for post mortem examination. The blood stained clothes of the deceased removed by the doctor from the dead body at the time of post mortem examination were also produced before the police and were taken into custody,

5. On 24.02.2001, one Bimaljit Singh had produced the accused/respondent No.1-Harbans Singh before the police upon which he was arrested. During investigation, he made a disclosure statement that he had kept concealed the blood stained kirpan in the ditches near the fields of Amar Singh Khadial near the bridge of canal minor on the road leading to Taranji Khera. Harbans Singh then got recovered the kirpan which was stained with blood. A sketch of the kirpan was prepared which was put in a parcel and sealed with seal 'S'. Jeep no. PB-13-0238 alongwith its R.C. was also taken into custody.

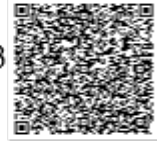
6. During investigation, it was found that Sukhpal Singh was not present at the spot and was found innocent. He was shown in column no.2 and the challan was submitted only against Harbans Singh .

7. The prosecution had moved an application under Section 319 Cr.P.C. upon which another accused/respondent No.2-Sukhpal Singh was summoned to face trial vide order dated 13.08.2001. Thereafter, charges under Sections 302/34 IPC were framed against both the accused to which they pleaded not guilty and claimed trial.



8. Learned State counsel submits that the trial Court had erred in acquitting the respondents despite clear and consistent testimonies of PW-3 Darbara Singh and PW-4 Hari Singh, who had witnessed the occurrence. Their relationship with the deceased is no ground to discard their evidence, particularly when their presence at the spot was natural. He further submits that the medical evidence substantially corroborates the ocular account, as multiple incised wounds were found on the person of the deceased, consistent with the *kirpan* blows attributed to the accused/respondents. Minor variations between medical and ocular versions do not discredit the prosecution especially in a brutal assault where multiple injuries were inflicted. He also submits that there was strong motive arising out of the long-standing land dispute (“Dabbarwali land”), which explains the assault and reinforces the prosecution version. Learned State Counsel, therefore, submits that the judgment of acquittal be set aside and the respondents be convicted for the commission of an offence punishable under Section 302/34 IPC.

9. Learned counsel for the respondents, on the other hand, has vehemently argued that the trial Court has rightly appreciated the evidence while acquitting the respondents. He submits that the FIR was registered after an unexplained delay of about 12 hours. The first version was recorded not at the police station or at the spot, but at an Octroi Post, for which no cogent explanation has been furnished. Moreover, the ocular version of PW-3 Darbara Singh and PW-4 Hari Singh is highly doubtful because both witnesses are closely related to the deceased and admittedly inimical to the

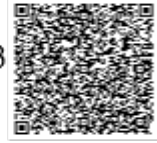


accused/respondents on account of the land dispute. No independent witness was examined. Even the Naib Tehsildar, who was said to be visiting the land that day and Gurcharan Singh, who was allegedly accompanied by the complainant, were not examined which affects the credibility of the prosecution. Moreover, there are material contradictions between the ocular and medical evidence. The injuries described by the eye-witnesses do not match with the post-mortem findings, which record abrasions and a deep incised wound on the knee exposing bone, but no corresponding explanation is forthcoming from the ocular version. He also submits that the alleged recovery of the kirpan at the instance of Harbans Singh does not inspire confidence. He also submits that the motive of land dispute, relied upon by the prosecution, equally provides reason for false implication. He, therefore, submits that the appeal filed by the State is liable to be dismissed.

10. Learned counsel for the complainant had also supported the submissions of learned State counsel and prays for conviction of the respondents.

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

12. In order to prove the allegations against the accused/respondent for which he had been charge-sheeted, the prosecution had examined as many as 12 prosecution witnesses i.e. PW1 Dr. M.L. Khipla, PW-2 Gulzar Singh , PW3 Dalbara Singh , PW4 Hari Singh , PW5 Parmodh Kumar Ahlmd, PW6 Jasbir Singh , PW7 Kaish Kumar, PW8 MHC Jaswinder Singh , PW9 HC Harbans

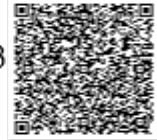


Singh , PW10, SI Rajwinder Singh , PW11 Inspector Sikander Singh and PW12 Inspector Atma Singh .

13. PW1 Dr. M. L. Khipla, Medical officer, who had conducted the post-mortem examination on the dead body of Sham Singh , had found following injuries:-

- “1. Three incised wounds on the left side of forehead above the left eye size 3cm x 1cm x 1.1/2 c.m. 1 & 1 cm x 1cm. Blood clots present.*
- 2. Incised wound on the top of head. 1 ½ cm x 1 cm. Blood clots present.*
- 3. Incised wound on the anterior side of right forearm 4cm x 1cm with blood clots,*
- 4. Incised wound on the posterior side of right knee joint 10cm x 8cm internal bones were out*
- 5. Incised wound on the posterior side of left elbow joint. Bones were out.*
- 6. Incised wound on the palm of left hand 1cm x 1cm.*
- 7. Abrasion two in number on the lower one third of back 4cm x 1 cm each.”*

PW1 Dr. M. L. Khipla had deposed that the scalp and skull were fractured. Membranes and brain were damaged, walls, ribs of thorax, cartilages, pleurae were NAD Abdomen and its contents contained approximately 200 ml of fluid present with undigested products. Bladder was empty. He had opined the cause of death was intracranial haemorrhage profuse bleeding which was *ante-mortem* in nature and was sufficient to cause death in ordinary course of nature. According to him, the time between the injury and death was immediate and between death and post-mortem was 14 to 16 hours.



He had proved Ex.PA which was correct carbon copy of post-mortem report and Ex.PA/1 and Ex.PA/2 which are pictorial diagrams showing the seats of injuries. According to him, the injuries could be the result of Kirpan Ex.P1.

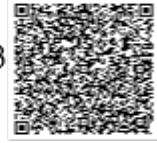
14. PW3 Dalbara Singh , PW4 Hari Singh , who are the complainant and eye-witnesses of the occurrence respectively, had reiterated the prosecution story as mentioned in the FIR.

15. PW5 Parmodh Kumar, who was Ahlmad of the Court of Civil Judge, Sunam, had produced the record of Civil Suit no.555 dated 30.03.1995 filed by Sant Singh s/o Lal Singh of village Khadial (brother of deceased) against Kartar Singh (father of Harbans Singh -accused/respondent No.1).

16. PW6 Jasbir Singh , who was Ahlmad of the Court of Civil Judge, Barnala, had produced the record of Civil Suit no.348 dated 18.11.2000 filed by Basant Kaur (mother of Harbans Singh –accused/respondent No.1) against Sant Singh (brother of the deceased). The said suit was pending for 10.09.2002.

17. Other prosecution witnesses including formal witnesses had corroborated the link evidence.

18. After closing the prosecution evidence, the statement of the accused/respondents under Section 313 Cr.P.C. were recorded wherein they had denied all the allegations and also pleaded innocence. They pleaded that they had been falsely implicated in this case while they were in possession of Dabbarwali land which they had leased out. They also submitted that neither the deceased-Sham Singh nor the complainant party were not in possession of said land. Moreover, the Naib Tehsildar had not to visit the spot on 11.04.2001.



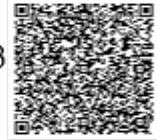
Sukhpal Singh (accused/respondent No.2) also pleaded that on 10.04.2001, he had gone to his sister in village Badshahpur, where he fell ill and remained admitted in hospital w.e.f. 10.04.2001 to 17.04.2001. He also submitted that he is a resident of Sunam and used to visit village rarely.

19. In the defence, they had examined DW1 Jit Singh , who was an Ex. Sarpanch of the village and had deposed that on 11.04.2001, he developed severe pain in the chest and was hospitalised and admitted in Civil Hospital. Badshahpur, where Sukhpal Singh (accused/respondent No.2) was also lying admitted in the same ward since 10.04.2001.

20. DW 2Satnam Singh , who is a resident of village Badashahpur and the husband of sister of Sukhpal Singh , had deposed that Sukhpal Singh came to them on 10.04.2001 and fell ill with diarrhoea. He was taken to Civil Hospital, Badshahpur at 08:00 p.m. on 10.04.2001 where he remained admitted under treatment till 17.04.2001.

21. DW3 Dr.Mukhtiar Singh had deposed that on 04.02.2001, he was posted as Medical Officer/Incharge in C.H.C. Badshahpur. On 10.04.2001 at 08:45 PM, Sukhpal Singh was brought to Emergency Ward. He was admitted in hospital, where he was treated and remained admitted till 17.04.2001. He had proved the copies of entry in Emergency ward Register, Indoor patients Register and Bed Head Ticket as Ex.(s)DC, DD and DE respectively. He also deposed that on 11.04.2001, one Jit Singh was brought to emergency at 03:20 p.m and was admitted & discharged.

22. After considering the statements of all the witnesses and taking into account the evidence led by both the sides, the trial Court had observed

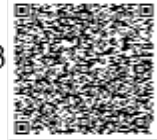


that the prosecution had failed to prove its case and the respondents were acquitted of the charges by giving them the benefit of doubt.

23. The prosecution primarily rests on the ocular version of PW-3 Darbara Singh, who is brother of the deceased Sham Singh and PW-4 Hari Singh. Both are interesting witnesses and no independent witness had been examined to prove the ocular version. Although their evidence is not to be rejected outright, but it needed independent support. Neutral witnesses like the Naib Tehsildar (who was allegedly to visit that day) or Gurcharan Singh (who went with PW-3 to the police), weren't examined. This weakens the prosecution's case of a broad daylight murder in a public place.

24. There is an unexplained delay of approximately 12 hours in registration of the FIR. The incident allegedly happened at 05:00 p.m. on 11.04.2001, but the FIR was registered about 12 hours later. The complainant's statement was strangely recorded at an Octroi Post instead of the police station or crime scene. No proper reason was given for this. Such a delay in a murder case raises doubts and suggests possible afterthoughts.

25. PW-1 Dr. M.L. Khipla had noticed three incised wounds on the left forehead, one incised wound on the vertex, incised wounds on the right forearm, posterior right knee (with bone exposed), posterior left elbow (with bone exposed), an incised wound on the left palm, and two abrasions on the lower back. Cause of death was intracranial haemorrhage due to ante-mortem injuries, sufficient in the ordinary course. The ocular version indicates multiple back blows and three forehead blows but the medical record notes abrasions on

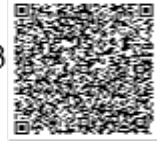


the back, not incised wounds while recording a serious incised wound to the posterior right knee with bone exposed that finds no mention in the eye-witness account. The mismatch creates material doubt about the sequence and manner of assault as narrated.

26. The kirpan (Ex.P1) is said to have been recovered pursuant to Harbans Singh's disclosure which was stated to be 'stained with blood'. However, there is no proof linking the blood on the weapon to the deceased. There were also seal mismatches and chain-of-custody doubts. The seized jeep wasn't linked to the crime, and Harbans Singh's bloodstained clothes were never recovered. This makes the recovery weak and unreliable. In the absence of reliable serological linkage and an unimpeachable chain of custody, the recovery remains, at best, a weak corroborative circumstance that cannot elevate a doubtful ocular account to prove beyond reasonable doubt.

27. Initially, the investigating agency had found Sukhpal Singh innocent and kept in Column No.2 but later, he was summoned under Section 319 CrPC. However, The defence produced DW-1 Jit Singh (Ex-Sarpanch), DW-2 Satnam Singh (brother-in-law), and DW-3 Dr. Mukhtiar Singh, who proved hospital records showing Sukhpal Singh's admission at Civil Hospital, Badshahpur from 10.04.2001 to 17.04.2001, with entries in emergency and indoor registers, as well as the bed-head ticket. His presence at the crime scene is doubtful.

28. However, the land dispute with regard to Dabbarwali is proved through Civil Court records (PW-5, PW-6). In a case resting primarily on



partisan ocular testimony and a fragile recovery, motive alone cannot carry the prosecution over the threshold of certainty.

29. There are glaring inconsistencies in the prosecution materials that the trial court rightly viewed with circumspection. Firstly, the arrest of Harbans Singh and recovery of weapon was shown on “24.02.2001,” a date preceding the occurrence (11.04.2001). Even if a clerical error is pleaded, the prosecution did not lead clarifying evidence. Such lapses, coupled with the sealing discrepancies and the unusual place of recording the first statement, cumulatively raise serious doubts.

30. In view of the above contradictions between ocular and medical evidence, the unexplained FIR delay and lack of independent corroboration, we find that there is no infirmity or illegality in the judgment of the trial Court acquitting the respondents by giving them the benefit of doubt and the appeal is, hereby, dismissed.

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

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

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

**18.08.2025**  
A.Kaundal

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