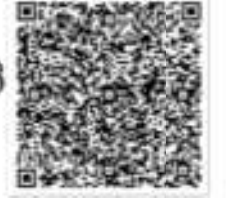


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2025:PHHC:020615-DB



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(339)

CRA-D-229-DB-2005 (O & M)

Reserved on: 10.02.2025

Date of Pronouncement:13.02.2025

Charanjit Kaur

.... Appellant

V/s

State of Punjab

...Respondent

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

Present: Ms. Kashish Sahni, Advocate as Amicus Curiae
for the appellant.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J.

The present appeal has been filed against the judgment of conviction and order of sentence dated 18.01.2005 passed by the Sessions Judge, Sangrur.

2. The instant FIR came to be registered on 29.10.2003. The accused-appellant came to be convicted vide judgment of conviction and order of sentence dated 18.01.2005. The present appeal against the judgment of conviction and order of sentence was filed on 21.03.2005. The



matter has come up for final hearing now after more than 21 years of the registration of the FIR.

3. The facts, in brief, are that on 29.10.2003, ASI Sukhkirpal Singh of Police Station, Sunam reached at Civil Hospital, Sangrur on receipt of a memo regarding the death of Bhola Singh son of Ram Singh resident of village Ramgarh Jawandha. Ram Singh, father of the deceased, met him and made a statement Ex.P-11 to the effect that he was a resident of Village Ramgarh Jawandha and had two sons, Bhola Singh (deceased) and Mithu Singh (PW-3). Bhola Singh was married with Charanjit Kaur (accused) about 11 years ago and two sons and a daughter were born from the wedlock. There was a quarrel at the time of the last Rabi crop between Charanjit Kaur, Ram Singh, Bhola Singh and Mithu Singh and a case was registered against them at police station, Sunam. Charanjit Kaur also moved an application before the Women Cell but Panchayats of Villages Kohrian and Ramgarh Jawandha got effected a compromise and Charanjit Kaur came to reside with Bhola Singh about three months back. Bhola Singh was an employee of Atma Singh of Village Kothe Rohi Ram and he resided there on rent in a house of Vas Dev along with his family. The second son of Ram Singh, namely, Mithu Singh also worked at Kothe Rohi Ram.

On 28.10.2003 at about 7.00 p.m., Ram Singh and his son Mithu Singh went to meet Bhola Singh. After taking tea, Bhola Singh asked his wife Charanjit Kaur to bring a bottle of liquor lying in the house for his



father and brother. Charanjit Kaur brought a bottle which was half filled, from inside the house and placed it before them. Ram Singh and Mithu Singh did not take the liquor as they were to return to village Ramgarh but Bhola Singh took one peg out of the bottle. When Ram Singh and Mithu Singh decided to go back to their village, Bhola Singh told them that the liquor was tasting bitter. Therefore, Bhola Singh also vomited. Ram Singh arranged a vehicle and removed Bhola Singh to Civil Hospital, Sunam, from where he was referred to Civil Hospital, Sangrur, at about 2.30 a.m. on 29.10.2003, where he expired. It was alleged that Charanjit Kaur had illicit relations with his nephew Satpal Singh @ Baman-accused and Bhola Singh used to restrain Charanjit Kaur. Both Charanjit Kaur and Satpal Singh, conspired and administered some poisonous substance to Bhola Singh in the liquor.

4. ASI Sukhkirpal Singh made his endorsement Ex. P14 on the said statement and sent it to police station, Sunam, and a case was registered vide FIR Ex.P.15. He inspected the dead body and prepared the inquest report Ex.P-4. He moved application Ex.P-2 for post-mortem examination of the dead body. ASI Sukhkirpal Singh went to the spot and prepared a site plan Ex. P-16. The clothes of the deceased were produced before him which were taken into police possession vide memo Ex. P-17. He recorded statements of the witnesses. Thereafter, the investigation was handed over to ASI Sukchain Singh. He arrested accused-Charanjit Kaur on 31.10.2003 and



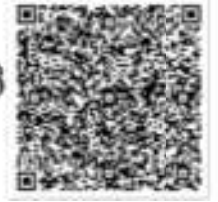
empty bottle Ex.P-29 was recovered in pursuance of the disclosure statement Ex.P-24 made by her, which was taken into police possession vide memo Ex.P-25. He also arrested accused-Satpal Singh. On completion of the investigation, both accused were challaned under Section 302 read with Section 120-B of the Indian Penal Code.

5. Charges were framed against the accused under Sections 120-B and 302 read with Section 120-B of the Indian Penal Code. They pleaded not guilty and claimed trial.

6. In support of its case, the prosecution examined 14 prosecution witnesses.

7. Dr.P.S. Sibia, PW-1 conducted post-mortem examination on the dead body of Bhola Singh 29.10.2003 and found that there was no ligature mark and that nothing abnormal was detected in any of the organs. He sent the viscera for chemical examination. According to him, the probable time between injury and death was immediate and between death and post-mortem was 12-24 hours. He proved copy of the post-mortem report Ex.P-1. On receipt of report of the Chemical Examiner, Ex.P-6, he declared the cause of death to be aluminum phosphide vide his opinion Ex. P-7.

8. Ram Singh, PW-2 the complainant at who's instance, the case was registered, supported the prosecution case and stated that he along with his son Mithu Singh at about 7.00 p.m. had gone to the house of Bhola Singh, where both the accused were present. When asked, Charanjit Kaur



brought a bottle of liquor from the other room. He and Mithu Singh did not take the liquor but Bhola Singh consumed the same and stated that it was bitter in taste and immediately vomited. They removed Bhola Singh to Civil Hospital, Sunam, from where he was referred to Civil Hospital, Sangrur, where he expired. He further stated that accused Satpal Singh who is the nephew of Charanjit Kaur, had illicit relations with her and on that account, both of them had administered poison to Bhola Singh.

9. Mithu Singh, PW-3 stated that Charanjit Kaur and Bhola Singh used to quarrel with each other. Bhola Singh had sold his house and had shifted to Kothe Rohi Ram where he started residing along with his family. About five months back, he had gone to the house of Bhola Singh along with Ram Singh. Bhola Singh asked his wife Charanjit Kaur to bring a bottle of liquor. Charanjit Kaur brought the bottle which was half filled with liquor, while they did not take liquor, Bhola Singh took a peg of the same and thereafter, he vomited, Bhola Singh died in Civil Hospital, Sangrur. Charanjit Kaur had illicit relations with accused Satpal Singh and both of them killed him.

10. Vas Dev, PW-4 stated that he rented out his house to Bhola Singh where he used to reside with his wife and children.

11. Pargat Singh, PW-5 stated that about six months back, he was going to the brick kiln and when he was in front of the house of Bhola Singh, he heard a noise there. He entered the house and found accused



Satpal Singh, Charanjit Kaur and Bhola Singh present there. Bhola Singh was asking Satpal Singh as to why he was visiting his house. Satpal Singh and Charanjit Kaur told him that Satpal will continue to come to the house.

12. Major Singh, PW-6 draftsman prepared the scaled site plan Ex.P-12.

13. Dr.R.S.Singla, PW-7 initially attended to Bhola Singh on 28.10.2003 at 11.45 p.m. at Civil Hospital, Sunam. He stated that he sent information vide chit Ex.P-13 to Police Station, Sunam. He also referred the patient to Civil Hospital, Sangrur vide slip Ex.P-14.

14. ASI Sukhkirpal Singh, PW-8 the investigating officer recorded the statement Ex.P-11 of Ram Singh. He also prepared the inquest report Ex. P-4 on the dead body of Bhola Singh and prepared a rough site plan Ex.P-16 of the place of occurrence.

15. ASI Karam Singh, PW-9 stated that a complaint was received from Smt. Charanjit Kaur on 24.07.2003 and the same was sent to in charge, Women Cell for a report. He proved the complaint Ex. P-18 and report thereon Ex. P-19.

16. Sub Inspector Hardial Kaur, PW-10 stated that she received complaint Ex. P-18 and after conducting enquiry, submitted report Ex. P-19.

17. PW-11 Head Constable Kashmira Singh and PW-12 Constable Jaswinder Singh are witnesses to the different aspects of investigations.



18. ASI Sukhchain Singh PW-13 party investigated the case and arrested accused Charanjit Kaur on 31.10.2003 and got recovered an empty bottle Ex.P-2 in pursuance of her disclosure statement. He also arrested accused Satpal Singh.

19. Statements of the accused, as required, under Section 313 Cr.P.C. were recorded and the incriminating circumstances appearing against them were put to them. They controverted the allegations.

Accused-appellant/Charanjit Kaur pleaded that Bhola Singh was under debt. Ram Singh and Mithu Singh had caused her injuries and a criminal case was pending against them and due to this they had implicated her falsely.

Satpal Singh pleaded that his family had a dispute with Ram Singh regarding a colony and on that account he had been falsely implicated in this case.

20. Based on the evidence led, while acquitting accused-Satpal Singh @ Baman, the accused-appellant-Charanjit Kaur came to be convicted and sentenced by the Court of the Sessions Judge, Sangrur vide judgment of conviction and order of sentence dated 18.01.2005 as under:-

Offence U/S	Sentence RI	Fine	RI in default of payment of fine
302 IPC	Life Imprisonment	Rs.5,000/-	RI 01 year

21. The aforementioned judgment of conviction and order of



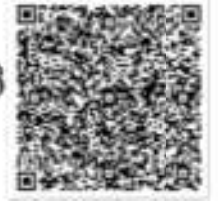
sentence dated 18.01.2005 passed by the Sessions Judge, Sangrur, is under challenge before this Court.

22. During the pendency of this appeal, the sentence of the accused-appellant, namely, Charanjit Kaur was suspended by this Court vide order dated 09.09.2008.

23. The learned Amicus Curiae for the accused-appellant contends that the prosecution case is unbelievable. The question of poisoning the deceased in the presence of his father/complainant-Ram Singh (PW-2) and brother-Mithu Singh (PW-3) does not arise. There is a considerable delay in the registration of the FIR which shows that the same is a result of consultations and confabulations. The complainant-PW-2 Ram Singh and his son-Mithu Singh (PW-3) are stated to have been with the deceased while he was drinking between 7.00 and 8.00 p.m. on 28.10.2003. However, the deceased is stated to have reached Civil Hospital, Sunam at 11.45 p.m. from where he was referred to Civil Hospital, Sangrur but died at 1.45 a.m. The inquest took place on 29.10.2003 at 8.30 a.m. However, the statement leading to the registration of the FIR was given to the police at 11.30 a.m. and the special report reached the Illaqa Magistrate at 5.30 p.m.. This delay of 15 hours in the registration of the FIR creates a significant doubt in the prosecution case and leads to the conclusion that neither PW-2/Ram Singh nor PW-3/Mithu Singh were in fact with the deceased on the night of the occurrence. She contends that there is absolutely no evidence as to who had

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taken the deceased to the hospital. As per the prosecution case, it was PW-2/Ram Singh and PW-3/Mithu Singh who had taken the deceased to the hospital. Interestingly, in the FIR Ram Singh (PW-2) stated that the deceased had been taken to hospital by them accompanied by Atma Singh son of Jit Singh, the employer of the deceased. The said Atma Ram @ Lalli son of Jit Singh, however, has not been examined by the investigating agency and was given up as unnecessary. PW-7/Dr. R.S. Singla has also not referred to the name of the relative who had brought the deceased to the hospital. She further contends that there is absolutely no evidence of where and how the deceased was fed liquor laced with poison. No recovery of any liquor bottle/tumbler showing traces of poison has been effected either from the spot or at the instance of any of the accused. This has so been admitted by PW-8/ASI Sukhkirpal Singh. As per the prosecution case, the deceased had vomited at the spot, on his clothes, in the car and in the hospital. However, neither was any vomit recovered from the spot from his clothes, from the car or from the hospital. None of the doctors examined, stated that the deceased was smelling of alcohol. Even the Viscera report is silent about the presence of alcohol in the body of the deceased. She, thus, contends that as the deceased was in debt, a fact which has been admitted by his father/PW-2 Ram Singh and was worried on that count, he might have committed suicide and that is the broad case of the defence as set-out in the statement under Section 313 Cr.P.C. of Charanjit Kaur. She, therefore, contends that the



present appeal be allowed and the accused-appellant Charanjit Kaur be acquitted of the charges framed against her.

24. The learned counsel for the State, on the other hand, contends that the offence stands established beyond reasonable doubt. The deceased was consuming liquor, vomited and was taken to hospital by PW-2/Ram Singh and PW-3/Mithu Singh. There was no delay in the registration of the FIR as the witnesses got busy in trying to save the deceased. As per the report of the FSL, aluminum phosphide had been found in the report of Viscera. He, therefore, contends that the present appeal was liable to be dismissed.

25. We have heard the learned counsel for the parties.

26. As per PW-2/Ram Singh-complainant and PW-3/Mithu Singh, the father and brother of the deceased, they had gone to visit the deceased when he asked his wife-Charanjit Kaur to bring a bottle of liquor. He is stated to have consumed some liquor, felt uncomfortable, started vomiting and was taken to hospital where he died. The statements of these two witnesses are hard to accept. It does not stand to reason that the accused-Charanjit Kaur wife of the deceased-Bhola Singh would give poison laced alcohol to the deceased in the presence of his father (PW-2/complainant Ram Singh) and brother (PW-3/Mithu Singh). Further, as per their statements, the deceased was consuming liquor any time between 7.00 to 8.00 p.m. on 28.10.2003. If he had indeed collapsed at the spot, then he ought to have



been taken to the hospital immediately. However, as per PW-7/Dr. R.S. Singla, who was posted at Civil Hospital, Sunam, the deceased-Bhola Singh was brought to the hospital with a suspected case of poisoning at 11.45 p.m. This delay of 03 hours and 45 minutes between the alleged poisoning and being taken to hospital stands unexplained and goes to show that these prosecution witnesses have falsely deposed that they were present with the deceased when the occurrence took place.

27. Despite the deceased having passed away at about 1.45 a.m., the statement leading to the registration of the FIR was only given at 11.30 a.m. and the special report reached the Illaqa Magistrate at 11.35 pm. As PW-2/Ram Singh and PW-3/Mithu Singh were already present at the hospital and the deceased had passed away in their presence, the delay in making the statement to the police creates a serious doubt in the case of the prosecution.

28. As per the prosecution case, PW-2/Ram Singh and PW-3/Mithu Singh had taken the deceased to the hospital. However, there is absolutely no evidence on record regarding this fact. In the FIR, PW-2/Ram Singh stated that he was accompanied by Atma Singh son of Jit Singh, the employer of the deceased. However, there is no evidence of the said fact as well. During the course of the Trial, Atma Singh was given up as unnecessary. This is also a serious lacuna in the case of the prosecution.



29. Further, there is absolutely no evidence as to where and how the deceased was fed with liquor laced with poison. No recovery of any liquor bottle/container/tumbler has been effected showing traces of poison. An empty bottle has been shown to have been recovered at the instance of the accused-appellant Charanjit Kaur which does not further the case of the prosecution. This lacuna in the case of the prosecution is further exacerbated by the fact that the deceased had vomited at the spot, on his clothes, in the car and in the hospital but from no place has any recovery of any vomit been effected.

30. As regards the motive, the Trial Court after examining the evidence of PW-5/Pargat Singh who is the witness of a purported quarrel between both the accused on the one hand and the deceased on the other regarding the illicit relations of the accused with each other has rejected the testimony of this witness and acquitted the accused-Satpal Singh @ Baman. No appeal has been filed by the State against the acquittal of Satpal Singh @ Baman. We have also examined the statement of PW-5/Pargat Singh and find it is hard to believe that this witness interfered in the quarrel between family members and that accused-Charanjit Kaur told her husband Bholu Singh (deceased) that she would continue meeting her paramour-Satpal Singh @ Baman in his presence. Therefore, the Trial Court has rightly rejected the testimony of this witness.



31. On the other hand, the defence of accused-Charanjit Kaur in her statement under Section 313 Cr.P.C. is to the effect that the deceased was under debt and she had been implicated because of a matrimonial dispute with her in-laws. PW-2/Ram Singh-complainant has during the course of his cross-examination, not only admitted the fact that a case had been insituted by the accused-appellant but also that his son-Bhola Singh (since deceased) was under debt and used to remain worried on that count. In this scenario, the deceased having committed suicide cannot be ruled out.

32. In view of the aforementioned discussion, we find considerable merit in the arguments raised by the learned Amicus Curiae for the appellant-Charanjit Kaur and by giving her the benefit of doubt, we set aside the judgment of conviction and order of sentence dated 18.01.2005 passed by the Sessions Judge, Sangrur and acquit her of the charges framed against her.

33. The present appeal is allowed in the above terms.

34. The pending applications, if any, stands disposed of accordingly.

(GURVINDER SINGH GILL)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

13.02.2025
sukhpreet

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