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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(102)

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Reserved on: 13.05.2025

Date of Pronouncement: 16.05.2025

Preet Inder Pal Singh @ Sonu

. ... appellant

V/s

State of Punjab

...Respondent

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

Present: Mr. Narinder Singh, Advocate
for the appellant.

Mr. Siddharth Attri, AAG, Punjab.

JASJIT SINGH BEDI, J.

The present appeal has been filed against the judgment of conviction and order of sentence dated 05.02.2004 passed by the Additional Sessions Judge, Moga.

2. The instant FIR came to be registered on 11.10.2000. The accused-appellant came to be convicted vide judgment of conviction and order of sentence dated 05.02.2004. The present appeal against the judgment of conviction and order of sentence was filed on 01.03.2004. The matter has come up for final hearing now after almost 25 years of the registration of the FIR.

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3. Briefly stated on 10.10.2000, Jaswinder Singh complainant lodged the instant FIR stating that he was working as a Photographer at village Jalalabad East. Inderjit Singh (now deceased) was his cousin (father's sister's son), who had been running a shop of readymade garments at Moga. On that day, at about 6.30 p.m. after finishing his work, he went to the shop of Inderjit Singh at Moga. At about 6.45 p.m., Inderjit Singh closed his shop and then both of them came from Moga to his village on a Bajaj Chetak scooter. On reaching his house, he asked Inderjit Singh to stay with him in his village during the night but he stated that his father had gone to Mohali to give invitation cards of his marriage to his maternal uncle Balvir Singh and therefore, he had to go back to his village Lohgarh. Thereafter, both of them again started on the scooter from village Jalalabad East towards village Lohgarh. The scooter was being driven by him while Inderjit Singh was the pillion. At about 7.30 p.m., when they reached one kilometre ahead on the link road from the main road Moga-Dharamkot, a Maruti car white in colour came from behind. Two shots were fired from the car towards them. Inderjit Singh raised an alarm that he had been shot. On turning around, he saw the car, which had come parallel to their scooter. One person was driving the car while the other was sitting adjacent to the driver seat. He identified the assailant sitting adjacent to the driver seat as Sonu son of Surjit Singh, Shimba by caste, resident of village Lohgarh, who was having a gun in his hand. The driver of the car was aged 20/25 years, medium height and

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average built, whom he could identify if produced before him. Due to the receipt of a gunshot by Inderjit Singh, their scooter became unstable and both of them fell down. Inderjit Singh was shot on the left side of his back. Then, the assailants went away in their car. Thereafter, he went to village Lohgarh and brought a conveyance. At that time, Inderjit Singh was struggling for his life. Then, he took Inderjit Singh to civil hospital, Moga but on reaching there he succumbed to his injuries. The motive for crime was that in the year 1997, Inderjit Singh and others had caused injuries to Sonu for which a case was registered against them and was pending in the court. Due to this reason, Sonu had murdered Inderjit Singh by firing a shot at him.

4. After recording the statement Ex.P6 of Jaswinder Singh complainant, S.I. Rachhpal Singh/PW-15 made his endorsement Ex. P6/A and sent the same to the police station for registration of the case on the basis of which formal FIR Ex.P6/B was recorded by S.I. Balbir Singh. At 11.50 p.m., he prepared the inquest report Ex P-2 of the dead body of Inderjit Singh, which was attested by Ravinder Singh and Nachhattar Singh PWs. He sent the dead body for post-mortem examination through HC Tara Singh and C. Jagdev Singh. On the next day, i.e. on 11.10.2000, S.I. Rachhpal Singh/PW-15 inspected the spot in the presence of Jaswinder Singh-complainant and prepared rough site plan Ex.P13. He lifted the blood stained and simple earth and made them into separate parcels which were

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sealed with the seal bearing impression 'RS' and was taken into possession vide memo Ex. P-14 attested by Sukhwinder Singh PW and ASI Jagroop Singh. Two empty cartridges of 12 bore DBBL gun were recovered and were taken into possession vide memo Ex. P-15 after making a sealed parcel. Thereafter, HC Tara Singh produced before him a copy of the post-mortem report and belongings of the deceased Mo-15 to Mo-18 and the same were taken into possession vide memo Ex. P-30 after sealing them. HC Tara Singh also produced before him one vial containing pellets duly sealed by the doctor and the same was taken into possession vide said memo Ex.P-30. The scooter bearing registration No: PB29-1663 stained with blood was standing at the spot and the same was got photographed. The blood on the scooter was scratched and put into a plastic *dabi* and made into a parcel after sealing it with the seal bearing impression 'RS' and was taken into possession vide memo Ex. P-32. The scooter alongwith its RC was also taken into possession vide the said memo. He also searched for the accused but could not arrest them. On return to the police station he deposited the case property with MHC Kulwant Singh.

5. On 17.10.2000, S.I. Rachhpal Singh alongwith other officials was present at Lohgarh Chowk Dharamkot. There Surjan Singh, resident of village Lohgarh produced before him Preet Inder Pal Singh @ Sonu accused and he formally arrested him. On interrogation he suffered a disclosure statement Ex.P-16 signed by him and attested by ASI Jagroop Singh and

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C. Darshan Singh, that he had kept concealed and buried one 12 bore DBBL gun in his fields near the electric motor under the grass about which only he knew and could get the same recovered. In the meanwhile, Baljit Singh PW came to the spot and he was also joined. Then in pursuance of his disclosure statement Ex. P-16, Preet Inder Pal Singh @ Sonu accused got recovered, one 12 bore DBBL gun from the place disclosed by him. The gun was made into a parcel, sealed with the seal bearing impression 'RS' and was taken into possession vide memo Ex. P-17 attested by Baljit Singh PW and ASI Jagroop Singh. He also prepared rough site plan Ex. P-33 of the place of recovery and on return to the police station he deposited the gun with MHC Kulwant Singh with seals intact.

6. On 20.10.2000, S.I. Rachhpal Singh alongwith other police officials was present at Goal Chowk, Dharamkot where Atma Singh Sarpanch produced before him Malkiat Singh accused son of Gurnam Singh alongwith his car bearing No: DL-IC-2108. He formally arrested him and took into possession the car vide memo Ex. P-18 attested by ASI Jagroop Singh and C. Parshotam Lal. On return to the police station, he deposited the car with MHC Kulwant Singh. On 24.11.2000 Gurpreet Singh Photographer produced before him two photographs and two negatives which were taken into possession vide memo Ex.P-35. He recorded the statements of the witnesses and thereafter, the remaining investigation was handed over to Inspector Kewal Singh.

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7. On 14.12.2000, Inspector Kewal Singh arrested Malkiat Singh accused son of Gurdial Singh under the Arms Act, 1959, who was the licence holder of the 12 bore DBBL gun and took into possession his Arms Licence Ex. P-19 vide memo Ex.P-19/A attested by ASI Jagroop Singh and Piara Singh PW. On receipt of reports, Ex.P-40 and Ex.P-41 of the Forensic Science Laboratory, Punjab, Chandigarh and after completion of necessary investigation formalities, challan against the accused was presented.

8. On commitment, the charges were framed under Sections 302/34 IPC and 27 of the Arms Act, 1959 against the accused to which they pleaded not guilty and claimed trial.

9. In order to prove its case, the prosecution examined Dr. V.J.S. Dhillon Medical Officer PW-1, C.Jaswant Singh PW-2, Gursewak Singh Draftsman PW-3, Atma Singh PW-4, Jaswinder Singh complainant PW-5, MHC Kulwant Singh PW-6, C.Darshan Lal PW-7, Balwinder Singh Arms Clerk District Magistrate Moga PW-8, Raj Kumar Junior Assistant/DTO office, Moga PW-9, HC Tara Singh PW-10, HC Krishan Kumar PW-11, ASI Balbir Singh PW-12, S.I. Jagroop Singh PW-13, Pardeep Singh Photographer PW-14, S.I. Rachhpal Singh Investigating Officer PW-15, Inspector Kewal Singh PW-16, Joginder Singh Clerk SDM Zira PW-17 and Gurpreet Singh Photographer PW-18. The evidence was closed after tendering reports Ex.P-40 and Ex.P-41 of the Forensic Science Laboratory, Punjab Chandigarh.

10. The gist of the prosecution evidence is as under:-



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Dr. V.J.S. Dhillon, Medical Officer, Civil Hospital, Moga PW-1 has deposed that on 11.10.2000 at 9.00 am, he conducted the post-mortem examination on the dead body of Inderjit Singh son of Nirmal Singh, resident of village Lohgarh and found the following injuries on his person:-

1. Lacerated punctured wounds with inverted margins on back of left chest, 3 cms from mid line and 14 cms from hip bone and 30 cms from top of chest, measuring .25 cms x .25 cms each, C.O.A. was present. There were about 42 small lacerated punctured wounds with inverted margins covering the area of 10 cms x 9½ cms. The small wounds were scattered in this area in almost circular shape.

On dissection of chest and abdomen, both cavities were full of blood and small metallic pellets were recovered from (i) left lung (ii) Spleen, (iii) Liver, (iv) Stomach and (v) Intestines.

2. Abraded contusion on right knee.

3. Abraded contusion on right medial ankle.

The left lung was lacerated. Peritonium was punctured. Stomach was punctured badly. Both the intestines, liver and spleen were also punctured. Rest of the organs were healthy.

In his opinion, the death in this case was due to shock and haemorrhage caused by fire arm injuries to the vital parts, which were ante-mortem in nature and sufficient to cause death in an ordinary course of nature. He proved the carbon copy of the post-mortem report Ex. P1 and pictorial diagrams Ex. P1/A. He has also proved the inquest report Ex.P-3 on

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which Dr.S.P. Bansal, SMO directed vide endorsement Ex.P-3/A for post-mortem examination to be conducted by him.

Gursewak Singh Draftsman PW-3 deposed that on 06.12.2000 he prepared the scaled site plan Ex.P-5 at the instance of Jaswinder Singh-complainant.

Atma Singh PW-4, Ex.-Sarpanch and Ex.-Member Block Samiti Dharamkot is a witness of the extra judicial confession allegedly made by Malkiat Singh-accused.

Jaswinder Singh complainant PW-5 is the eye witness of the occurrence. He deposed that on 10.10.2000 he had gone to Moga for some private work. At about 6.30 p.m., he had gone to the shop of Inderjit Singh his cousin, who was running a shop of readymade garments. Inderjit Singh closed his shop at 6.45 p.m. and then they started on the scooter of Inderjit Singh and came to his house in village Jalalabad East. He asked Inderjit Singh to stay with him at his house but he (Inderjit Singh) told him that he had to go to his village Lohgarh as his father had gone to Mohali to distribute the invitation card of his marriage. He also asked him to accompany him to village Lohgarh to which he agreed. Then, both of them, again started on the scooter. The scooter was driven by him while Inderjit Singh was pillion. At about 7.30 p.m., when they reached 1 kilometer ahead on the link road of village Lohgarh from Moga-Dharamkot road a car came from behind. Two shots were fired at them from inside the car. Inderjit Singh

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raised an alarm that he had received a shot. Then he turned around and the car had come adjacent to their scooter. It was driven by Malkiat Singh accused while Sonu @ Preet Inder Pal Singh accused was sitting adjacent to the driver seat. Sonu @ Preet Inder Pal Singh accused was armed with 12 bore DBBL gun. Due to the second shot fired which hit Inderjit Singh, their scooter became unstable and they fell down. He saw Inderjit Singh having received a shot on the left side of his back. Then both the assailants went away in their car towards village Lohgarh. Due to the receipt of a gun shot Inderjit Singh became unconscious. After leaving Inderjit Singh at the spot, he went to village Lohgarh on a scooter to arrange a car. Then, they removed Inderjit Singh to civil hospital, Moga in the said car. On reaching the hospital, Inderjit Singh succumbed to his injuries.

The motive for crime was that in the year 1997, Sonu @ Preet Inder Pal Singh accused received injuries at the hands of Inderjit Singh and another and a case under Section 307 IPC was registered against them which was pending in a court at Ferozepur. Due to this grudge he had murdered Inderjit Singh. Then, he accompanied by the police reached the spot from where the police took into possession the blood stained and simple earth vide memo after preparing its sealed parcels. The police also prepared rough site plan of the place of the occurrence at his instance.

Balwinder Singh Arms Clerk PW-8 deposed that Arms Licence No:340/May/97/Zira in the name of Malkiat Singh son of Gurdial Singh,

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resident of of village Lohgarh was renewed up to 28.05.2003 vide serial No: 5491/OD/Moga in the office of District Magistrate, Moga. It related to a 12 bore DBBL gun bearing No: 19008. He proved the copy of the entry of the register Ex.P9.

Raj Kumar Junior Assistant DTO office Moga PW-9 deposed that car bearing No: DL-1C-2108 originally belonged to Pawan Kumar son of Ramji Lal resident of Gali No.4, Adarsh Nagar, Mandi Gur Har Sahai, District Ferozepur and on 09.08.2000, it was transferred in the name of Sarabjit Kaur wife of Pahara Singh, resident of Gali No.6, New Sodhi Nagar, Moga by the then DTO Moga. He proved the original RC Ex.,P-10 of the said car.

HC Krishan Kumar PW-11 proved the copy of the FIR NO: 183 dated 26.11.1997 under Sections 307/323/34 IPC, police station Dharamkot Ex.P-12.

ASI Balbir Singh PW-12 deposed that on 10.10.2000, he was posted as Addl. SHO and on receipt of statement Ex.P-6 of Jaswinder Singh complainant he recorded the formal FIR Ex.P-6/B.

S.I.Jagroop Singh PW-13 deposed that on 11.10.2000, S.I. Rachhpal Singh took into possession the blood stained and simple earth from the spot by making two separate parcels vide memo Ex.P-14. Two empty cartridges MO-1 and MO-2 of 12 bore were also recovered from near the spot, which were made into a sealed parcel and taken into possession

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vide memo Ex.P-15. He further deposed that on 17.10.2000, S.I. Rachhpal Singh SHO interrogated Sonu @ Preet Inder Pal Singh accused while in police custody, who suffered disclosure statement Ex.P-16 and got recovered a 12 bore DBBL gun MO-3, which was taken into possession vide memo Ex, P-17 attested by him and Baljit Singh PW. On 20.10.2000, Malkiat Singh accused produced Maruti car bearing No: DL-1C-2108 alongwith its RC Ex. P-10 before S.I. Rachhpal Singh and the same were taken into possession vide memo Ex. P18.

Pardip Singh Photographer PW-14 deposed that he took five photographs of the spot Ex. P-25 to Ex. P-29 and their negatives are Ex. P 20 to Ex. P-24.

S.I. Rachhpal Singh PW-15 the primary Investigating Officer, deposed that on 10.10.2000, he received a QST message from police station City-II, Moga regarding the death of Inderjit Singh. Then, he alongwith A.S.I. Jagroop Singh and other police officials went to civil hospital Moga and recorded the statement Ex.P-6 of Jaswinder Singh complainant. It was read over and explained to him and he signed the same in token of its correctness. He made his endorsement Ex. P-6/A and sent the same to the police station for registration of the case on the basis of which formal FIR Ex.P-6/B was recorded by S.I. Balbir Singh. At 11.50 p.m., he prepared the inquest report Ex. P-2 on the dead body of Inderjit Singh, which was attested by Ravinder Singh and Nachhattar Singh PWs. He sent the dead body for

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post-mortem examination through HC Tara Singh and C. Jagdev Singh. On the next day i.e. on 11.10.2000, he inspected the spot in the presence of Jaswinder Singh complainant and prepared rough site plan Ex. P-13. He lifted the blood stained and simple earth and made them into separate parcels which were sealed with the seal bearing impression 'RS' and were taken into possession vide memo Ex. P-14 attested by Sukhwinder Singh PW and ASI Jagroop Singh. Two empty cartridges of 12 bore DBBL gun MO-1 and MO-2 were recovered and taken into possession vide memo Ex.P-15 after sealed parcel. Thereafter, HC Tara Singh produced before him copy of the post-mortem report and belongings MO-15 to MO-18 of the deceased and the same were taken into possession vide memo Ex. P-30 after sealing them. HC Tara Singh also produced before him one vial containing pellets duly sealed by the doctor and the same was taken into possession vide said memo Ex. P-30. The scooter bearing registration NO: PB-29-1663 stained with blood was standing at the spot and the same was got photographed. The blood on the scooter was scratched and put into a plastic *dabi* and made into a parcel after sealing it with the seal bearing impression 'RS' and was taken into possession vide memo Ex.P-32. The scooter alongwith its RC was also taken into possession vide said memo. He also searched for the accused but could not arrest them. On return to the police station, he deposited the case property with seals intact with MHC Kulwant Singh.

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On 17.10.2000, he alongwith the other police officials was present at Lohgarh Chowk, Dharamkot. There Surjan Singh, resident of village Lohgarh produced before him Sonu @ Preet Inder Pal Singh accused and he formally arrested him. On interrogation, he suffered a disclosure statement Ex. P-16, signed by him and attested by ASI Jagroop Singh and C. Darshan Singh, that he had kept concealed and burried one 12 bore and DBBL gun under the grass near the electric motor in his fields about which only he knew and could get the same recovered. In the meanwhile, Baljit Singh PW came to the spot and he was also joined. Then in pursuance of his disclosure statement Ex. P-16, Sonu @ Preet Inder Pal Singh accused got recovered one a 12 bore DBBL gun from the place disclosed by him. The gun was made into a parcel, sealed with the seal bearing impression 'RS' and was taken into possession vide memo Ex. P-17 attested by Baljit Singh PW and ASI Jagroop Singh. He also prepared rough site plan Ex.P-33 of the place of recovery and on return to the police station he deposited the gun with seals intact with MHC Kulwant Singh.

On 20.10.2000, he alongwith other police officials was present at Goal Chowk Dharamkot where Atma Singh Sarpanch produced before him Malkiat Singh accused alongwith his car bearing No: DL-1C-2108. He formally arrested him and took into possession the car vide memo Ex.P-18 attested by ASI Jagroop Singh and C. Parshotam Lal. On return to the police station, he deposited the car with MHC Kulwant Singh. On 24.11.2000

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Gurpreet Singh Photographer produced before him two photographs and two negatives which were taken into possession vide memo Ex.P-35. He recorded the statement of the witnesses and thereafter the remaining investigation was handed over to Inspector Kewal Singh.

Inspector Kewal Singh PW-16 deposed that on 30.11.2000 the investigation of this case was entrusted to him. On 14.12.2000, he arrested Malkiat Singh son of Gurdial Singh, accused under the Arms Act, 1959, who was the licensee of 12 bore DBBL gun and took into possession his Arms Licence Ex. P-19 vide memo Ex. P-19/A attested by ASI Jagroop Singh and Piara Singh PW. After completion of necessary investigation formalities challan against the accused was presented by him.

Joginder Singh Clerk, SDM office Zira PW-17 deposed that the scooter No: PB 29-1663 was registered in the name of Inderjit Singh son of Nirmal Singh resident of village Lohgarh, Tehsil Zira. He proved registration certificate Ex.P-31 of the said scooter.

Gurpreet Singh Photographer PW-18 deposed that on 11.10.2000, at the instance of the police he took photographs Ex.P-36 and Ex.P-37 of the scooter bearing No: PB 29-1663 and their negatives are Ex. P 38 and Ex. P-39.

C. Jaswant Singh PW-2, MHC Kulwant Singh PW-6, C. Darshan Lal PW-7 and HC Tara Singh PW-10 have tendered their affidavits



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Ex. P- 4, Ex. P-7, Ex, P-8 and Ex.P-11, respectively as their evidence was of formal character.

11. After the closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. by putting to them all the incriminating material against them. They denied the same. Malkiat Singh accused stated that he was innocent and had been falsely implicated in this case. Preet Inder Pal Singh accused stated that he was innocent. He was not known as Sonu. He had been falsely implicated at the instance of Nachhattar Singh, who was being tried under Section 307 IPC for causing injuries to him.

12. In defence the accused examined Balbir Singh Panchayat Secretary Dharamkot DW-1, Surjan Singh DW-2, Gurdial Singh DW-3 and also tendered copy of the judgment dated 14.02.2003 Ex.D1.

13. Based on the evidence led, while the accused-Malkiat Singh was acquitted, the accused-appellant/Preet Inder Pal Singh @ Sonu came to be convicted and sentenced by the Court of the Additional Sessions Judge, Moga, vide judgment of conviction and order of sentence dated 05.02.2004 as under:-

Offence under Section	Sentence	Fine	In default of payment of fine
302 IPC	Imprisonment for life	Rs.5,000/-	RI 01 year
27 of the Arms Act, 1959	RI 03 years	Rs.5,000/-	RI 01 year



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All the sentences were ordered to run concurrently.

14. The aforementioned judgment of conviction and order of sentence dated 05.02.2004 passed by the Additional Sessions Judge, Moga is under challenge before this Court.

15. During the pendency of this appeal, the sentence of the accused-appellant, namely, Preet Inder Pal Singh @ Sonu was suspended by this Court vide order dated 11.07.2006.

16. The learned counsel for the accused-appellant contends that there is significant delay in the registration of the FIR which is fatal to the case of the prosecution. The conviction has been recorded only on the statement of the complainant-Jaswinder Singh (PW-5) who is an interested witness. One independent witness, namely, Kartar Singh has not been examined by the prosecution which creates a doubt in the prosecution case. He, thus, contends that the impugned judgment is liable to be set aside.

17. The learned counsel for the State, on the other hand, contends that the prosecution version emanating from the statement of PW-5/Jaswinder Singh (complainant) is clear and consistent in material particulars. The medical evidence is totally in consonance with the ocular account. As per the report of the FSL, Ex.P-41, the weapon recovered from the accused which was owned by his uncle Malkiat Singh matched the empty cartridges recovered from the spot. He, thus, contends



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that as the prosecution case stands established beyond reasonable doubt, the present appeal is liable to be dismissed.

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

19. The argument that there is a delay in lodging the FIR and sending the special report to the Illaqa Magistrate which has not been satisfactorily explained by the prosecution witnesses and is fatal to the prosecution case cannot be accepted. Admittedly, the alleged occurrence took place on 10.10.2000 at 7.30 p.m. The statement of Jaswinder Singh complainant Ex.P-6 was recorded by S.I. Rachhpal Singh on the same day at 11.40 p.m. i.e. after about four hours of the incident. It is in the testimony of Jaswinder Singh, complainant/PW-5 that immediately after the incident, he went to village Lohgarh, which is at a distance of 2/2½ kilometers from the place of incident, to arrange a conveyance. After arranging the conveyance, they took Inderjit Singh injured to civil hospital, Moga but on reaching there he succumbed to his injuries. Thus, it shows that after the incident, some time had been consumed by Jaswinder Singh complainant (PW-5) to arrange a conveyance from village Lohgarh and then taking the injured to Civil Hospital, Moga. Under these circumstances, the delay of four hours in lodging the FIR Ex.P6/B cannot be said to be utilised for any fabrication and the same had been sufficiently explained. On the contrary, the FIR in this case was quite prompt and contained all the material particulars of the prosecution case. Further, the special report reached the Illaga Magistrate on



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11.10.2000 at 4.00 pm. i.e. after about 20 hours of the incident. As it was night time and the Illaqa Magistrate was residing at Moga, it would have taken some time to deliver the special report to him. Thus, the delay, if any, in sending the special report to the Illaga Magistrate would not adversely affect the prosecution case.

20. The argument that the prosecution case rests on the sole testimony of Jaswinder Singh complainant (PW-5), who is a relative of the deceased and is, therefore, an interested witness who cannot be believed, has no merit. Admittedly, Jaswinder Singh complainant (PW-5) is the cousin of the deceased. According to the prosecution story, on the day of the occurrence, Jaswinder Singh complainant (PW-5) had gone to Moga for some private work. After finishing his work at about 6.30 p.m., he went to the shop of Inder Jit Singh deceased. Inderjit Singh closed his shop at 6.45 p.m. and then both of them started towards the village of Jaswinder Singh complainant (PW-5) on the scooter of Inderjit Singh. On reaching the house of Jaswinder Singh complainant (PW-5) in village Jalalabad East, he asked Inderjit Singh to stay for the night at his house but he asked him that his father had gone to Mohali to give invitation card of the marriage and he has to go back to his village Lohgarh. Then, both of them again started from village Jalalabad East towards village Lohgarh, when the alleged occurrence had taken place. It is a settled proposition of law that a relative will be the last person to leave out the real culprit and falsely implicate another. No



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evidence has come on the file to prove that Jaswinder Singh complainant (PW-5) was inimically disposed towards the accused and he had reason to falsely implicate them.

21. It is a settled proposition of law that a conviction can be based on the testimony of a solitary witness if he is reliable and his presence at the spot is established. It has so been held in '*Vadivelu Thevar versus The State of Madras and Chinniah Servai versus The State of Madras 1957 AIR Supreme Court 614, Vahula Bhushan alias Vehuna Krishnan versus State of T.N. 1989 AIR Supreme Court 236, State of Rajasthan versus Om Prakash 2007(3) RCR(Criminal) 526, Kunju @ Balachandran versus State of Tamil Nadu 2008(1) RCR(Criminal) 732*'. In the instant case, Jaswinder Singh complainant (PW-5) is a truthful witness and has given a detailed account of the prosecution story. His presence at the spot was natural because on that day he was going to leave the deceased to his village Lohgarh. Thus, his testimony can be relied upon even if the same has not been corroborated by any other eye-witness.

22. Further, because Kartar Singh was not examined as a prosecution witness cannot make the prosecution case suspicious and doubtful. Admittedly, during investigation, the police recorded the statement of Kartar Singh PW, who had seen the accused waiting in car No: DL-1C-2108 near Jaswant Cold Storage i.e. near the place of the occurrence. He had asked Sonu @ Preet Inder Pal Singh accused as to why they were standing



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there, to which he replied that they had some work. Then he left and when he covered some distance, he had seen Jaswinder Singh complainant (PW-5) alongwith Inderjit Singh deceased on scooter. However, during trial he had been given up by the learned Public Prosecutor for the State on the ground that he has been won over by the accused. It is the general tendency of independent witnesses either not to join the police investigation or if they join, they do not come forward to depose as witnesses in the court due to the fear of developing strained relations with the accused. Be that as it may, the prosecution is not bound to examine all the witnesses cited and it can give up any witness, if so warranted. Therefore, it is immaterial if the prosecution failed to examine Kartar Singh PW on the ground that he has been won over by the accused.

23. The recovery of 12 bore DBBL gun No: 19008 A/8 MO-3 from Sonu @ Preet Inder Pal Singh accused stands proved from the testimonies of S.I. Rachhpal Singh PW-15 and ASI Jagroop Singh PW-13. The recovery memo of the said gun Ex.P-17 was got attested from Baljit Singh PW, who happened to join the investigation. The prosecution also led evidence that the said gun MO-3 belongs to Malkiat Singh son of Gurdial Singh, who is an uncle of Sonu @ Preet Inder Pal Singh accused. The licence Ex.P-19 of the said gun in the name of said Malkiat Singh was taken into possession vide memo Ex.P-19/A. Thus, the recovery of said gun MO-3 has been fully established from Sonu @ Preet Inder Pal Singh accused.



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24. According to the prosecution case, during spot inspection two empties MO-1 and MO-2 were recovered from the spot which were made into a parcel and sealed with the seal bearing impression 'RS' and were taken into possession vide memo Ex.P-15. It is in the testimony of S.I. Rachhpal Singh PW-15 that on the same day, he deposited the sealed parcel containing two empties with MHC Kulwant Singh. MHC Kulwant Singh PW-6 in his affidavit Ex.P-7 has corroborated the aforesaid version of S.I. Rachhpal Singh PW-15 regarding deposit of sealed parcel containing two empties. He has further deposed that on 16.10.2000, he handed over the said parcel to C. Jaswant Singh 910, who further deposited the same in the office of Forensic Science Laboratory, Punjab. Chandigarh. As per the report Ex.P-41, the two empty cartridges were fired from the same 12 bore weapon which was recovered from the accused.

25. Admittedly, during investigation S.I. Rachhpal Singh PW-15 took into possession the blood stained and simple earth from the spot vide Memo Ex.P-14 after duly sealing its parcels. He also took into possession the blood stains on the scooter after scratching them and preparing a separate sealed parcel. The blood stained and simple earth recovered from the spot alongwith black rexine piece alleged to be stained with blood lifted from the scooter were also sent to the office of Forensic Science Laboratory, Punjab, Chandigarh. The Scientific officer (Serology) vide report Ex.P-40 opined that the parcel "A" (blood stained earth) and parcel C (black rexine piece



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alleged to be blood lifted from scooter) were stained with human blood. Thus, it shows that the occurrence had taken place at a place from where the blood stained earth was taken into possession vide memo Ex.P-14. It further shows that the deceased was sitting on the scooter No: PB-29-1663, which had stains of human blood.

26. Though, not so relevant in a case based on an eye-witness account, Sonu @ Preet Inder Pal Singh accused had a strong motive to commit the crime. It is in evidence that prior to the present incident, Inderjit Singh deceased and another had caused injuries to him for which a case was registered against them and was pending in a court at Ferozepur. The copy of the judgment Ex. D-1 also shows that Nachhattar Singh co-accused (of Inderjit Singh, the deceased) had been convicted under Section 307 IPC by the Additional Sessions Judge, Fast Track Court, Ferozepur.

27. The testimony of Balbir Singh Panchayat Secretary DW-1, who proved the voter list Ex. D-2 is also of no help to the accused. No reliance can be placed on the defence evidence.

28. In view of the aforementioned discussion, as the commission of the offence stands duly established beyond reasonable doubt, we find no merit in the present petition and the same stands dismissed. The accused-appellant/Preet Inder Pal Singh alias Sonu is directed to surrender before the Jail Authorities concerned to serve out his remaining sentence.

29. Information be given to the concerned quarters.

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30. The pending applications, if any, shall stand disposed of accordingly.

**(GURVINDER SINGH GILL)
JUDGE**

16.05.2025
sukhpreet

**(JASJIT SINGH BEDI)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No