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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRA-D-376-DB-2004
Date of Decision: 08.04.2025****RAJIV NATH****... Appellant****Versus****STATE OF HARYANA****...Respondent****CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE JASJIT SINGH BEDI****Present: Mr. Arav Gupta, Amicus Curiae
for the appellant.****Mr. R.S. Arya, Addl. A.G., Haryana.************JASJIT SINGH BEDI, J.**

The present appeal has been filed against the judgment of conviction and order of sentence dated 03/06.04.2005 passed by the Addl. Sessions Judge, Panipat.

2. The FIR was registered on 07.01.2003, the judgment of conviction and order of sentence passed by the Addl. Sessions Judge, Panipat is dated 03/06.04.2005, the appeal was filed on 12.07.2004 and the matter is being taken up for hearing now i.e. after a period of more than 23 years from the date of registration of the FIR.

3. The brief facts of the prosecution case are that on 07.01.2003, Sandeep Singh, SI, SHO, alongwith other police officials was present near Ganda Nala, Barsat Road, Panipat, in connection with the patrolling where complainant Prithvi Singh son of Joga Ram, Jat, resident of village Chandoli,

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District Panipat, met him at Ganda Nala of Barsat Road and got recorded his statement, Ex.PD to the effect that he was an agriculturist. There was a Dera and Mandir near his Fields. The said Dera was situated in three Bighas and 18 bighas of agricultural land which was fit for cultivation and was owned by the Dera. In the said Dera, Baba Shiv Nath and his disciple Maya Ram son of Sita Ram, Barber, of Khotpura, were residing. On 07.01.2003, at about 10.00 a.m. he had gone to his fields for roaming and when he went inside the Dera, he saw that Baba Shiv Nath and his disciple Maya Ram, both were lying dead on a cot in a room situated near the gate of the said Dera. Their faces were burnt with acid. Some unknown person had murdered them while sleeping in the night after sprinkling acid on account of some rivalry. The said room was not having any door. Thereafter he informed Devi Singh, brother of the Sarpanch of the village and other villagers. Many persons were present at the spot. He and Devi Singh were going to report the matter when the police met them near Ganda Nala bridge and he (complainant) got recorded his statement. SI Sandeep Singh then made his endorsement, Ex.PD/2 on the said statement and sent the same to the police Station, on the basis of which formal FIR Ex.PD/1 was recorded. The SI visited the spot, got the place photographed, prepared inquest proceedings Ex.PJ and Ex.PJ/1 on both the dead bodies and sent the same to the Civil Hospital, Panipat for postmortem examination by moving application, Ex.PK, Dr. K.L. Chopra alongwith Dr. Lata Sangwan conducted postmortem examination on both the dead bodies of Maya Ram and Shiv Nath, vide PMR, Ex. PA and Ex.PB, respectively. They opined that the cause of death in case of Maya Ram, in their opinion was due to head

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injury which was antemortem in nature and sufficient to cause death in ordinary course of events whereas in case of Shiv Nath it was haemorrhage, shock and injury to vital organs i.e. brain and lung and the injuries were antemortem in nature and sufficient to cause death in the ordinary course of events. The Investigating Officer took into possession half a bottle of liquor and one empty steel tumbler after converting them into a sealed parcel sealed with seal MS vide memo Ex.PL and seal after use was handed over to ASI Dharambir. The Investigating Officer also prepared a rough site plan, Ex.PM, with correct marginal notes of the spot, and recorded statements of witnesses. HC Dalbir Singh produced a sealed parcel containing clothes of the deceased so handed over to him by the doctor after postmortem examination, before SI Sandeep Singh, who took the same into possession vide memo Ex.PH. On 06.02.2003, Roop Chand, Sarpanch of village Chandoli and Sukhbir Singh of Chandoli, before whom the accused had made an extra judicial confession about the commission of the offence, produced the accused before the Investigating Officer, who recorded contents of the extra judicial confession, vide memo Ex.PE/1 and also recorded statements of the witnesses, arrested the accused and then on completion of investigations, the accused was sent up for trial.

4. Vide order dated 16.05.2003, the accused was charge-sheeted U/s 302 IPC to which he pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution examined Dr. K.L. Chopra, as PW.1, who conducted postmortem examination on the dead bodies of Maya Ram and Shiv Nath, and proved postmortem reports Ex.PA and

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Ex.PB, respectively, Pirthi Singh, complainant, as PW.2; Roop Chand son of Giani Ram as PW.3; Sultan Singh ASI as PW.4; HC Ranbir Singh as PW.5; Ram Chander Patwari as PW.6; MHC Randhir Singh as PW.7; HC Dalbir Singh as PW.8; SI Sandeep Singh, Investigating Officer as PW.9; Rajesh Kumar Constable as PW. 10; and HC Sushil Kumar as PW.11. The prosecution also tendered in evidence report of FSL as Ex.PF. PWs Pale Ram, Devi Singh, Sukhbir Singh, Dr. Lata Sangwan and Satbir were given up as unnecessary.

6. The gist of the statement of the relevant prosecution witnesses are as under:-

Dr. K.L. Chopra was examined as PW1. He conducted the postmortem examination on the dead bodies of Maya Ram and Shiv Nath. His deposition is as under:-

“On 07.01.2003, I alongwith Dr. Lata Sangwan, conducted postmortem examination on the dead body of Maya Ram son of Sita Ram, R/o Village Khotpura, aged about 80-65 Yrs. The body was identified by Devi Singh son of Giani Ram, and Sukhbir son of Daya Nand, R/o Chandoli. The dead body was brought by HC Dalbir Singh No.909. We found the followings:-

It was the dead body of an average built and nourished male with right eye closed. Skin of face, front of neck and small areas on sides of neck were chemically burnt. Soft tissues in these areas were also chemically burnt. Teeth and bones were visible and there were no soft tissues over there. He was wearing Bhagwan coloured shirt, red sweater, another Bhagwan coloured shirt, grey brown sweater, green Banian, white Dhoti, checkdar Parna, and a black thread with a metallic piece in it around the neck. Rigor mortis was present. He had following injuries on his body:-



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1. Left eye ball, eye lids, and eye brows were missing. Nose was also missing. There was fracture of nasal bores, maxilla of left side, left frontal, parietal, and temporal bones into many pieces. There was haematoma covering the brain. Frontal lobes of brain were badly lacerated. Clotted blood was present in brain tissues.

Stomach was healthy and contained semi digested food. Small intestines were healthy and contained chyle and gases. Large intestines were healthy and contained faecal matter and gases. All other organs were healthy.

The cause of death in this case in our opinion was head injury which was antermortem in nature and sufficient to cause death in ordinary course of events.

The followings were handed over to the police after the postmortem examination:-

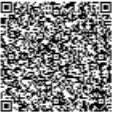
- 1. Well stitched dead body.*
- 2. Copy of postmortem report.*
- 3. Police papers numbering 1 to 18 initialled by us.*
- 4. A parcel bearing two seals and containing belongings of the deceased.*
- 5. Sample seal.*

The probable duration between injuries and death was immediate and between death and postmortem was within 6 to 36 hours. Ex.PA is the correct carbon copy of the Postmortem report prepared by us and it bears signatures.

On the same day, we also conducted postmortem examination on the dead body of Shiv Nath son of unknown, R/o Chandoli Dera, aged about 70-80 Yrs. The body was identified by Devi Singh son of Giani Ram and Sukhbir son of Daya Chand of village Chandoli and it was brought by HC Dalbir Singh No.909.

We observed the followings:-

It was the dead body of an average built and nourished male with eyes closed. Skin of face, front and sides of neck

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alongwith soft tissues were chemically burnt. Bones and teeth were visible without soft tissues on bones. He was wearing a Sleti colour shirt, white Dhoti, Bhagwan colour Chaddar on head and Kundal in both eyes. Rigor mortis was present. We found the following injuries:-

- 1. There was depression on forehead. On dissection clotted blood was present in scalp. Frontal bones were fractured. There was big haematoma covering the brain. Both frontal lobes of brain were lacerated and clotted blood was present in the brain tissues.*
- 2. All the soft tissues including trachea, larynx and oesophagus upto sternum were missing. Vertebrae were visible.*
- 3. There was reddish bruise 10cm x 3cm on right shoulder and proximal part of right arm. On dissection clotted blood was present in the soft tissues. There was fracture of right humerus.*
- 4. There was a reddish bruise 8cm x 4cm on the upper part of right side of chest. the On dissection clotted blood was present in the soft tissues. There was fracture of 3rd, 4th and 5th ribs on right side. Right pleural cavity was filled with blood. Right lung was injured.*

Stomach was healthy and contained semi digested food. Small intestines were healthy and contained chyle and gases. Large intestines were healthy and containing faecal matter. Al other organs were healthy.

In our opinion the cause of death was shock and haemorrhage, shock and injury to vital organs i.e. brain and lung. The injuries were antemortem in nature and sufficient to cause death in ordinary course of events. Ex.PB is the correct carbon copy of the PMR prepared by us and original is in my hand which bears our signatures.

We handed over the followings to the Police:-

- 1. Well stitched dead body.*
- 2. Copy of PMR*



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3. Police papers numbering 1 to 14 initialled by us.

4. A parcel bearing two seals and containing belongings of the deceased.

5. A sample seal.

The probable duration between injuries and death was variable and between and postmortem was within 6 to 36 hours.

Injury No. 1 on the body of Maya Ram was partly by chemical burns and partly with heavy blow.

Injury No.2 on the body of Shiv Nath was by chemical burns and remaining injuries were blunt in nature and were caused by some blunt weapon.

Ex. PC is the application of the Police.”

The statement of Pirthi Singh (complainant) was recorded as PW2. He stated that there was a Dera near his fields in which Baba Shiv Nath and his disciple Maya Ram used to reside. On 07.01.2003, he saw both the Baba and his disciple lying dead on two cots and their faces were burnt with acid. He informed Devi Singh, brother of the Sarpanch. When he was going to inform the Police, SI Sandeep Singh met him at the bridge of the Ganda Nala Barsat Road, Panipat and recorded his statement Ex.PD. He had seen accused Rajiv Nath in the Dera many times before the occurrence. In cross-examination, he stated that he had not told the police about the presence of the accused in the Dera. Except the persons mentioned no other person used to reside in the said Dera.

The statement of Roop Chand S/o Giani Ram was recorded as PW3. He stated that he was a Sarpanch of the Village Chandoli. Shiv Nath Baba along with his disciple used to reside in the Dera in their Village who were murdered on the intervening night of 06/07.01.2003. On 06.02.2003,

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while he was sitting in his fields along with Sukhbir Singh at 10/11.00 AM Rajiv Nath accused came to them. The said accused was known to him as he was residing in the Dera Baba Shiv Nath. He disclosed that he had killed both Baba Shiv Nath and Maya Ram after pouring acid on them as Baba Shiv Nath wanted Baba Maya Ram to succeed him to the Gaddi and he (Rajiv Nath) also wanted to occupy the same Gaddi. While they were in the process of producing the accused before the police, the police met them enroute on the village chowk. The police interrogated the accused who reiterated the same words before the police. His extra-judicial confession was reduced into writing which was Ex.PE/1 attested by him and Sukhbir Singh PW. In cross-examination, he stated that knew the accused for about 05 months prior to the occurrence as when he used to visit Dera Baba Shiv Nath, Maya Ram and the accused used to reside in the same.

Sandeep Singh the then SHO, P.S. Sadar Panipat was examined as PW9. He stated that complainant (Pirthi Singh) met him on 07.01.2003 leading to the registration of the FIR. He thereafter, conducted various facets of the investigation. He took into possession half a bottle of liquor and one empty steel glass from the spot. On 06.02.2003, Roop Chand, Sarpanch of Village Chandoli and Sukbir Singh of Chandoli produced the accused before him and stated that the accused had made an extra-judicial confession before them admitting his guilt. He also recorded the contents of the extra-judicial confession made before Roop Chand and Sukhbir Singh vide Ex.PE which was signed by both these witnesses. In cross-examination, he stated that he had recorded the contents of the extra-judicial confession as narrated by both



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the witnesses and did not put any question to the accused and nor was the extra-judicial confession recorded in question answer form.

7. On the basis of the evidence on record, the statement of the accused was recorded U/s 313 Cr.P.C. wherein he denied the prosecution version and pleaded innocence and his false implication. He took the following plea:-

"I am innocent and I have been falsely implicated in this case. I generally reside at Bindra Van (UP.) in Nand Gau Shala. I have no concern with the said incident nor I made any extra judicial confession before any persons nor they produced before the police. I even do not know the said Pws."

8. Based on the evidence led, the accused/appellant came to be convicted and sentenced by the Court of Addl. Sessions Judge, Panipat vide judgment and order of sentence dated 03/06.04.2004 as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
302 IPC	Life imprisonment	Rs.1000/-	RI for 01 month

9. It is the aforementioned judgment, which is under challenge, in the present appeal.

10. The learned Amicus Curiae for the accused/appellant contends that the extra-judicial confession purportedly made by the accused in the presence of PW3-Roop Chand and Sukhbir Singh PW cannot be believed. It does not stand to reason that the offence had been committed in secrecy and the accused would blurt out everything to these witnesses. Be that as it may, other than the extra-judicial confession, there was absolutely no evidence inculcating the accused in the offence. Neither was there any evidence of

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either of the deceased being seen in the company of the accused immediately prior to the occurrence and nor has any recovery being effected from the accused pursuant to his arrest. The motive has also emanated only from the extra-judicial confession and not from the statement of any other witness. Therefore, the chain of circumstantial evidence is not complete so as to leave no doubt whatsoever that it is the accused who has committed the offence. He thus, contends that the present appeal be allowed and the accused/appellant be acquitted of the charges framed against him.

11. On the other hand, the learned State counsel contends that the accused was residing in the same Dera as both the deceased. He committed the offence as he suspected that Baba Shiv Nath would hand over the Gaddi to his disciple Maya Ram and not to him (accused Rajiv Nath). He had made an extra-judicial confession before PW3-Roop Chand, the Sarpanch of the Village which cannot be disbelieved. Therefore, there was sufficient evidence inculcating the accused. He, thus contends that the present appeal was liable to be dismissed.

12. We have heard the learned counsel for the parties and gone through the record.

13. The present case is based on circumstantial evidence and the Hon'ble Supreme Court in the case of **Sharad Biridhichand Sarda Vs. State of Maharashtra, 1984 AIR Supreme Court 1622** held as under:-

“152. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:-



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(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. There is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved' as was held by this Court in Shivaji Sahebrao Bobade v. State of Maharashtra, (1973) 2 SCC 793 where the following observations were made :-

"certainly, it is a primary principle that the accused must be and not merely may be guilty before a Court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."

(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.

153. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence. "

(emphasis supplied)

14. In the recent judgment of **Karakkattu Muhammed Basheer versus The State of Kerala 2024(10) SCC 813**, the Hon'ble Supreme Court in the context of circumstantial evidence has held as under:-

"11. Thereafter, the above principles have been reiterated in the subsequent judgments of this Court and hold the field till date.



Thus, these basic established principles can be summarized in the following terms that the chain of events needs to be so established that the court has no option but to come to one and only one conclusion i.e. the guilt of the accused person. If an iota of doubt creeps in at any stage in the sequence of events, the benefit thereof should flow to the accused. Mere suspicion alone, irrespective of the fact that it is very strong, cannot be a substitute for a proof. The chain of circumstances must be so complete that they lead to only one conclusion that is the guilt of the accused. Even in the case of a conviction where in an appeal the chain of evidence is found to be not complete or the courts could reach to any another hypothesis other than the guilt of the accused, the accused person must be given the benefit of doubt which obviously would lead to his acquittal. Meaning thereby, when there is a missing link, a finding of guilt cannot be recorded. In other words, the onus on the prosecution is to produce such evidence which conclusively establishes the truth and the only truth with regard to guilt of an accused for the charges framed against him or her, and such evidence should establish a chain of events so complete as to not leave any reasonable ground for the conclusion consistent with the innocence of accused.

(Emphasis supplied)

15. Coming back to the facts of the present case, as per the prosecution the accused made an extra-judicial confession before PW3-Roop Chand stating that he had committed the murder of both the deceased. The occurrence took place on the night intervening 06/07.01.2003. The FIR was registered on 07.01.2003. The accused purportedly made an extra-judicial confession only on 06.02.2003. There is absolutely no justifiable reason for the accused to have made that confession and that too after a month of the



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occurrence. After the registration of the FIR which is against unknown persons, there was no reason for the Investigating Agency to suspect the present accused and therefore, the recital in the extra-judicial confession that he was making a confession as the police was searching for him cannot be accepted. Even otherwise, where an offence is committed in secrecy, it is highly unlikely that an accused would confess to have committed the offence much after the offence without any justifiable reason. Be that as it may, an extra-judicial confession by its very nature is an inherently weak piece of evidence which cannot be accepted without sufficient corroborative evidence which as shall be discussed hereinbelow is unavailable.

16. With respect to an extra-judicial confession in the case of **State of Punjab Versus Bhajan Singh & others, (1975) 4 SCC 472**, the Hon'ble Supreme Court held as under:-

“15. Coming to the evidence of extra judicial confessions, we find the same to be improbable and lacking in credence. According to Gurmej Singh and Jabarjang Singh PWs, the confessing accused came to them and blurted out confessions. They also requested those two witnesses to produce them before the police. The resume of facts given above would go to show that according to the prosecution case, the murders of the three deceased persons were committed in a most heinous manner and under a veil of secrecy. Persons who commit such murders after taking precautions of secrecy are not normally likely to become garrulous after the commission of the offence and acquire a sudden proneness to blurt out what they were at pains to conceal. In any case it seems rather odd that all the three accused who had not been arrested till the morning of May 9, 1972 should be seized almost at the same time by a mood to make confession. It is significant that Surjit Singh, Charan Kaur and Jito



accused had no particular relationship or connection with Gurmej Singh and Jabarjang Singh PWs. These two witnesses were also not in such a position that the above mentioned three accused would be willing to repose their confidence in them. If Surjit Singh, Charan Kaur and Jito wanted to surrender themselves before the police, we fail to understand as to why they should not themselves surrender before the police and go instead to Gurmej Singh and Jabarjang Singh and blurt out confessions before them. The evidence of extra judicial confession in the very nature of things is a weak piece of evidence. The evidence adduced in this respect in the present case lacks plausibility and, as observed by the High Court, it does not inspire confidence.”

(Emphasis supplied)

In **Kalinga @ Kushal Vs. State of Karnataka By Police**

Inspector Hubli, 2024 INSC 124, the Hon’ble Supreme Court held as under:-

“14. The conviction of the appellant is largely based on the extra judicial confession allegedly made by him before PW-1. So far as an extra judicial confession is concerned, it is considered as a weak type of evidence and is generally used as a corroborative link to lend credibility to the other evidence on record. In Chandrapal v. State of Chattisgarh⁶, this Court reiterated the evidentiary value of an extra judicial confession in the following words:

“11. At this juncture, it may be noted that as per Section 30 of the Evidence Act, when more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the court may take into consideration such confession as against such other person as well as against the person who makes such confession. However, this court has consistently held that an extra judicial confession is a weak kind of evidence and unless it inspires confidence or is fully corroborated by some other evidence of clinching nature,



ordinarily conviction for the offence of murder should not be made only on the evidence of extra judicial confession. As held in case of State of M.P. Through CBI v. Paltan Mallah, the extra judicial confession made by the co-accused could be admitted in evidence only as a corroborative piece of evidence. In absence of any substantive evidence against the accused, the extra judicial confession allegedly made by the co-accused loses its significance and there cannot be any conviction based on such extra judicial confession of the co-accused.”

15. It is no more res integra that an extra judicial confession must be accepted with great care and caution. If it is not supported by other evidence on record, it fails to inspire confidence and in such a case, it shall not be treated as a strong piece of evidence for the purpose of arriving at the conclusion of guilt. Furthermore, the extent of acceptability of an extra judicial confession depends on the trustworthiness of the witness before whom it is given and the circumstances in which it was given. The prosecution must establish that a confession was indeed made by the accused, that it was voluntary in nature and that the contents of the confession were true. The standard required for proving an extra judicial confession to the satisfaction of the Court is on the higher side and these essential ingredients must be established beyond any reasonable doubt. The standard becomes even higher when the entire case of the prosecution necessarily rests on the extra judicial confession.”

(emphasis supplied)

17. An attempt has been made by the prosecution to show that the accused was also residing in the Dera along with both the deceased. PW2-Pirithi Singh stated that he had seen Rajiv Nath accused in the Dera many times prior to the occurrence. Similarly, PW3-Roop Chand stated that he knew the accused who used to live in the Dera of Baba Shiv Nath. Taking



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these statements to be believable, at best, it could be said that the accused was residing in the same Dera as both the deceased. However, by no stretch of imagination can it be said that the accused was 'last seen' in the company of either of the deceased immediately prior to the occurrence. In fact, there is no evidence on record to show that Rajiv Nath was in the company of both the deceased on the night intervening 06/07.01.2003. Therefore, there is no evidence of the accused having been "last seen" in the company of the deceased.

18. As regards motive, other than the extra-judicial confession where the motive has been narrated there is no other independent evidence of the same. In a case of circumstantial evidence, motive for commission of the offence assumes vital importance. The same is lacking in the present case.

19. Further, pursuant to the arrest of the accused, no recovery whatsoever has been effected from him either of the acid or of any other weapon purportedly used in the occurrence. In fact, a glass bottle and steel tumbler recovered from the spot were subjected to fingerprint analysis but the chance prints were not found to be decipherable.

20. The aforementioned discussion establishes that the prosecution has not been able to prove its case beyond reasonable doubt and the chain of circumstantial evidence is not so complete so as to lead to only one irresistible conclusion that it is the accused alone who has committed the offence.

21. Therefore, the instant appeal is accepted. The impugned judgment dated 03/06.04.2005 passed by the Addl. Sessions Judge, Panipat is



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set aside and the accused/appellant is acquitted of the charges framed against him.

**(JASJIT SINGH BEDI)
JUDGE**

**(GURVINDER SINGH GILL)
JUDGE**

08.04.2025

JITESH

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