



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-447-DB-2004 (O&M)
Date of Decision: 15.07.2025

SAHIB SINGH & OTHERS

.. Appellants

Versus

STATE OF PUNJAB

...Respondent

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

Present: Mr. S.S. Rana, Advocate
for the appellants.

Mr. Siddharth Attri, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The present appeal has been filed against the judgment of conviction and order of sentence dated 22/28.04.2004 passed by the Addl. Sessions Judge, Exercising the Powers of Sessions Judge, Kapurthala.

2. The FIR was registered on 11.07.2002, the judgment of conviction and order of sentence passed by the Addl. Sessions Judge, Exercising the Powers of Sessions Judge, Kapurthala is dated 22/28.04.2004, the appeal was filed on 07.05.2004 and the matter is being taken up for hearing now i.e. after a period of 23 years from the date of registration of the FIR.

3. Jatinder Singh S/o Chamel has passed away and therefore, the proceedings qua him stand abated.

4. The brief facts of the case are that on 11.07.2002 at about 08.00 AM complainant Jaswant Lal S/o Fauja Singh had gone to his fields for the purpose of irrigating the same. He found the dead body of an unknown

person of the age about 40/45 years. The dead body was decomposed, to a great extent, and was emitting a foul smell. There were injuries, on the abdomen, chest, left and right arms and on the left side of the mouth and neck of the dead body maggots were moving on the dead body. It appeared that somebody had committed the murder of that unknown person. Jaswant Lal went to Joginder Pal, Ex-President, and Nagar Panchayat, Bholath and narrated to him what he saw in his fields. He alongwith Joginder Pal, started for the police station, for lodging the report, when on the way, the police met him. Jaswant Lal made a statement, Ex.PC, before Jaswinder Singh ASI, Inspector/ SHO, P.S. Bholath, which was recorded by him. It was read over and explained to Jaswant Lal, and after admitting the same to be correct, he thumb marked it. Endorsement, Ex.PC/1, was appended thereon. The statement was sent to police station, Bholath, on the basis whereof, FIR, Ex.PC/2, was registered.

5. Thereafter, Tarlochan Singh, Inspector/SHO, P.S. Bholath, alongwith Jaswant Lal, complainant, and other police officials went outside the town of Bholath at the place of occurrence in the fields of paddy crop of Jaswant Lal. The dead body was lying there. It was unidentified. Ex.PE, the inquest report of the dead body was prepared. One piece of cloth of yellow colour (Parna) and one Chappal of one foot were lifted from the spot and taken into possession vide memo Ex.PF, attested by Nirmal Lal, MC, and Sarabhjit Singh, ASI Ex.PCC, the site plan of the place occurrence, was prepared, with correct marginal notes. The dead body was handed over by HC Jagir Singh, HC for getting the postmortem conducted vide request, Ex. PA. The photographs of the dead body, were taken. The persons were joined in the investigation for the purpose of identification of the dead body but the

same could not be identified. After the postmortem examination, HC Jagir Singh, produced the clothes of the dead body, before Tarlochan Singh, Inspector/SHO, P.S.Bholath, i.e. shirt, trouser (Pajama) and underwear, which were converted into a parcel, sealed with the seal bearing impression TS. The parcel was taken into possession vide memo, Ex.PO, attested by Sarabjit Singh, ASI, and Jagir Singh, Head Constable.

6. On 12.7.2002 Rajwinder Singh, Mulkha Singh and Tarlok Singh, residents of village Leel Khurd came to the Police Station when Tarlochan Singh, Inspector/SHO, P.S. Bholath was present there. After obtaining the parcel containing the clothes from the Moharrir Head Constable, the same, photographs, piece of cloth (Parna) and one chappal of left foot were shown to them. Rajwinder Singh son of Bhajan Singh deceased Mulkha Singh and Tarlok Singh identified the clothes, a piece of cloth (Parna) and chappal, as that of Bhajan Singh deceased. The photographs were also identified as that of Bhajan Singh, deceased. Identification memo, Ex.PD, was prepared, which was attested by Rajwinder Singh, Mulkha Singh and Tarlok Singh. Thereafter, the clothes were again sealed into a parcel, with the seal, bearing impression TS and handed over to the Moharrir Head Constable.

7. The statement of Rajwinder Singh, was recorded, who stated that he was studying in 9th standard, in Shri Harkishan Public School, Batala his father Bhajan Singh S/o Pal Singh @ Santa Singh, Jat resident of village Leel Khurd, was serving as a Constable in Punjab Armed Police (PAP) and had been posted the last 20/25 years serving as a Horse-rider, in the Excise Staff, Bholath. On account of this reason, Bhajan Singh had developed illicit relations with Surinder Kaur wife of Jhumel Singh, Jat resident of Bholath. During his service, Bhajan Singh rarely come to his village Leel Khurd. Most

of the time he used to reside with Surinder Kaur aforesaid. It was further stated by him that in the year 1998, his mother Kashmir Kaur, actual wife of Bhajan Singh had died. After her death, Bhajan Singh almost stopped coming to village Leel Khurd. It was further stated by him, that about three months ago Bhajan Singh had retired from the police service. After his retirement, he had started permanently residing in the house of Surinder Kaur, at Bholath.

On 2.6.2002, two officials were sent by the Commandant, PAP to the house of Rajwinder Singh to inform him that his father Bhajan Singh, had retired as constable from PAP. They further told him that Bhajan Singh was to be identified. He alongwith his mother's sister on the same day, accompanied the police officials to 80 Battalion PAP Lines, Jalandhar, where MHC of the said Battalion met them. The MHC told him (Rajwinder Singh) and his mother's sister Randhir Kaur that Bhajan Singh was to come to the office of 80 Battalion, PAP Lines, Jalandhar on 03.06.2002. On 03.06.2002, Rajwinder Singh alongwith Randhir Kaur, aforesaid came to the office of 80 Battalion, PAP Lines, Jalandhar. They were produced before the commandant of the Battalion, by the MHC. The commandant was told by him (Rajwinder Singh) that his mother Kashmir Kaur had died in the year, 1990 and his father Bhajan Singh, was serving as a Constable in 80 Battalion, PAP. He further told him that neither was he visiting his village Leel Khurd, nor paying him the money and was residing with Surinder Kaur at Bholath. The Commandant, told him that Bhajan Singh and a lady alongwith him, were disbursed a sum of Rs.77,000/- on 02.06.2002. An application was moved by him (Rajwinder Singh) before the Commandant and thereafter, he alongwith Randhir Kaur, came back.

On 5.6.2002, he went to the house of Surinder Kaur at Bholath

for taking back his father Bhajan Singh but he refused to do so. Therefore, he (Rajwinder Singh) came back to his village Leel Khurd. On 9.7.2002 at about 12 p.m. (noon), he (Rajwinder Singh) went to meet his father Bhajan Singh at the house of Surinder Kaur, aforesaid at Bholath. Bhajan Singh met him and he requested him (Bhajan Singh) to accompany him, to village Leel Khurd. He (Rajwinder Singh) also demanded money from his father, Bhajan Singh, for the purpose of purchase of a motor cycle. Bhajan Singh demanded money from Surinder Kaur but she refused to pay the same. He then made inquiry from Sahib Singh alias Sonu and Jatinder Singh alias Bhondu sons of Surinder Kaur about the money, who told him that a sum of about Rs.25,000/- of Bhajan Singh, was lying with Surinder Kaur. Again Bhajan Singh demanded money from Surinder Kaur and her sons. Instead of paying the money, they started quarreling with him. They also refused to pay the money.

At about 8 p.m. on 9.7.2002, he (Rajwinder Singh) alongwith his father Bhajan Singh, went towards the cremation ground for answering the call of nature. At about 8.30 p.m. He (Rajwinder Singh) and his father Bhajan Singh were sitting near the tubewell motor, when Sahib Singh alias Sonu armed with Kirpan, Jatinder Singh alias Bhondu armed with Gandasi, their servant Prabhu, armed with Datar, and Pardeep Kumar alias, Minni, their relation, armed with iron rod, who were known to him (Rajwinder Singh), earlier came towards them. The moment, they came, they caught hold of Bhajan Singh, he (Rajwinder Singh), taking the benefit of darkness, ran away from the spot towards Nadala. They chased him with a view to apprehend him but could not succeed. After reaching Nadala he boarded a tempo carrying vegetables and he went to Subhanpur, wherefrom, he went to his

village Leel Khurd. On 10.07.2002. He being frightened, did not disclose this incident to any body.

On 12.7.2002, he read in the newspaper that on 11.7.2002 a dead body of an unidentified person was found lying, in the fields of Samittar Kaur resident of Bholath. After reading that news, he alongwith Mulkha Singh son of Darshan Singh and Tarlok Singh son of Bawa Singh, residents of village Leel Khurd, P.S.Rangarh Nangal, Gurdaspur came to P.S.Bholath.

8. On 15.7.2002, Gurdip Singh, Ex-Sarpanch, Model Town village, came to P.S. Bholath. His statement was recorded, with regard to the extra judicial confession. On 14.7.2002, Tarlochan Singh, Inspector/SHO, P.S. Bholath, was present in the Police Station, when Gurdip Singh, Ex-Sarpanch, produced Sahib Singh, Jatinder Singh, Prabhu and Pardeep Kumar, accused. They were arrested, vide memos, Ex. PDD, Ex.PDD/1 Ex.PDD/2 and Ex.PDD/3.

9. Thereafter, Sahib Singh, accused, led the police party to the pre-disclosed place, and got recovered a Kirpan. Rough sketch Ex.PX/1 of the same, was prepared. The kirpan was converted into a parcel, which was sealed with the seal, bearing impression TS and was taken into possession vide memo, Ex.PX. The sketch and the memo were attested by Mohinder Singh and Sarabjit Singh, ASI.

10. Thereafter, Jatinder Singh accused led the police party to the pre-disclosed place, and got recovered a small axe (Gandasi). Rough sketch, PX-PY/1, of the same, was prepared. The small axe was converted into a parcel, which was sealed with the seal TS, and taken into possession vide memo, Ex.PY/1. The sketch and the memo, were attested by the aforesaid witnesses.

11. Thereafter, Prabhu accused led the police party to the pre-disclosed place, and got recovered one Datar, stained with blood, the sketch whereof, Ex.PZ/1, was prepared. The Datar was converted into a parcel, which was sealed with the seal bearing impression TS and taken into possession, vide memo Ex. PZ. The sketch and the memo, were attested by the aforesaid witnesses. The Kirpan is Ex.P16 Gandassi, is Ex.P17 and Datar is Ex.P18. One site plan, Ex.PEE, with regard to the place of recoveries of weapons of Sahib Singh and Jatinder Singh, was prepared, whereas Ex.PFF, site plan of the place of recovery of weapon of Prabhu accused was prepared.

12. The statements of the witnesses, were recorded at various stages of the investigation. The case property was also deposited with the MHC, at various stages of the investigation. After the completion of investigation, the accused were challaned.

13. On commitment to the court of Sessions, it was found that Pardeep Kumar, was a juvenile in conflict with law. His case was separated and sent to the juvenile court, for inquiry.

14. Charge under Section 120-B IPC against Sahib Singh, Prabhu, Surinder Kaur and Jatinder Singh, under section 302 read with section 34 IPC against Sahib Singh, Jatinder Singh and Prabhu and under Section 419 IPC against Surinder Kaur accused were framed vide order dated 27.8.2003. It was read over and explained to the accused. They pleaded not guilty to the charge and claimed trial.

15. The prosecution, in support of its case, examined as many as 18 witnesses. The gist of the prosecution evidence is as under:-

Dr. Narinder Singh, PW1 Medical Officer, Civil Hospital, Kapurthala alongwith other doctors, on 11.7.2002, constituted a Board and at

4.50 p.m. conducted post-mortem examination, on the dead body of an unknown person brought by HC Jagir Singh and Charan Dass of Police Station, Bholath, alongwith request Ex.PA. It was a putrefied foul smelling dead body of moderately built male, about 45 years of age, wearing almond coloured full sleeves kurta, pajama and blue coloured kachha. Eyes were bulging out, and partially putrefied and partially eaten away by maggots, face was swollen and deformed and scalp hair partially grey easily pluckable. There was peeling of skin at hands, feet and at places on other parts of the body. Rigor mortis was absent in all the four limbs. He found the following injuries on the dead body:-

- i) A wound with clean cut regular margins measuring 2-1/2 cm x 1/2 cm x muscle deep, 2 cm lower to left ear lobule.*
- 2) An other wound with clean cut regular margin on left side of neck measuring 2 cm x 1/2 cm x muscle deep, 1 cm lower to injury No.1.*
- 3) Another wound 2 1/2 cm x 1/2 cm x muscle deep, on left side of the neck with clean cut regular margin, 4.0 cm lower to injury no.1.*
- 4) A wound with clean cut regular margin measuring 3-1/2 cm x 3/4 on right side lower chest.*
- 5) A wound with clean cut regular margin, measuring 4 cm x 3/4 cm over upper part of abdomen, 2cm right to midline.*
- 6) A wound with clean cut regular margin, measuring 3 cm x 1/2 cm just below injury no.5.*
- 7) Another wound measuring 4-1/2 cm x 1-1/2 cm with clean cut regular margin through which loops of gut were*

protruding out on right side of abdomen.

8) A wound with clean cut regular margin on left side of abdomen, measuring 3 cm x 1 cm, 3.5 cm to the left and below injury no.6.

9) A wound with clean cut regular margins on left side of the abdomen at the level of umbilicus..

10) Peeling of whole thickness of skin 10cm 4cm around umbilicus was present.

11) Wound, with clean cut regular margin over anterior aspect of middle of left thigh.

12) Wound with clean cut regular margin over outer aspect of left thigh below and lateral to injury no.11.

13) Wound with clean-cut regular margin over inner aspect of lower part of left thigh measuring 2 ½ cm x 1½ cm x muscle deep.

14) Wound with regular clean cut regular margin over, posterior aspect of lower part of right thigh, measuring 3cm x ¾ cm x muscle deep.

15A) Wound with regular clean cut margin over outer aspect of left fore-arm measuring 2-1/2 cm x 1/2 cm x muscle deep.

15B) Two wounds each measuring 2-1/2 cm x ¾ cm at a distance of 1 cm on left side of abdomen.

In the opinion of the Board, the cause of death, in this case, was haemorrhage and shock due to injuries no.3 to 6, which were sufficient to cause death, in the ordinary course of nature. All the injuries were ante-mortem, in nature. All the injuries, except injury no.10, on the dead body,

could be caused by sharp edged weapon. The probable time that lapsed between the injuries, and death, was within a few minutes, and between the death and post mortem, was about 36 to 72 hours.

Rajwinder Singh, PW3, is the son of Bhajan Singh, deceased. He made a statement in line with the one made by him under Section 161 Cr.P.C. He also stated that accused Sahib Singh alias Sonu, armed with Kirpan, Jatinder Singh alias Bhondu, armed with Gandasi, Prabhu, armed with Datar and Pardeep Kumar (Juvenile) started causing injuries on the person of his father. In cross examination he stated that he had been brought up by his uncle Gurmej Singh with whom he was residing. The house of his other uncles were 3 or 4 houses away from the house of Gurmej Singh. His Village of Leel Khurd had about 400 inhabitants and one Gurdip Singh was the Sarpanch of the Village. While he remained at the house of Surinder Kaur none of the accused had misbehaved with him or had threatened to cause him injuries. The Police Station of Bholath was at a distance of about 1 kanal from the cremation ground. He clarified that the place where they were sitting was at a distance of 1 km from P.S. Bholath. He had not gone to P.S. Bholath to report about the occurrence at night. He had run away at about 8.45 PM. He was afraid of the accused and therefore, did not disclose about the occurrence to anyone. He did not talk to his uncle Gurmej Singh about the occurrence and nor did Gurmej Singh talk to him about village Bholath. On 10.07.2002 and 11.07.2002 he did not speak to the Sarpanch, Panch or Lambordar of Leel Khurd or to any relation regarding the occurrence. He was feeling upset on account of the fact that a sum of Rs.70,000/- pensionary benefits received by his father Bhajan Singh had been retained by the accused. He had read the news in Jagbani on 12.07.2002 regarding the death

of his father and saw the photographs of his father therein. When he went to the police station on 12.07.2002, he did not take his uncle along with him.

Gurmej Singh PW4 is the brother of the deceased. He was also living in village Leel Khurd. On 9.7.2002, he came to Bholath, to enquire about Bhajan Singh and Rajwinder Singh, who had gone to meet him (Bhajan Singh). He was told by Surinder Kaur that they had come to her house but had left. He stated that when he started back for his village and reached near the cremation ground of Bholath, Sonu Bhundu, one Bhayla and Prabhu, accused, came there. All four of them had bloodstained weapons in their hands, namely Kirpan, Datar iron rod and Gandasi. He stated that on seeing them we went to his village. The light of the motorcyle was on at that time. In cross-examination he stated that he had been bringing up Rajwinder Singh for the last 10-15 years. He had started from village Leel Khurd for going to Bholath to inquire about Rajwinder Singh at about 06.00 PM on that day. He had reached Bholath at about 9.40 PM and when he went to the house of Surinder Kaur and asked her as to whether Rajwinder Singh and Bhajan Singh had come there, she stated that they had come to her house and had gone back to village Leel Khurd. He started back from village Leel Khurd at about 10.30 PM from Bholath. He reached back at Leel Khurd at about 12.30 AM. Rajwinder Singh had met him on the following day at about 08.00/08.30 AM but did not disclose anything about the occurrence. He did not go to Bholath on the following day to find out as to how the accused were carrying weapons stained with blood on the previous night. He did not tell anyone in village Leel about the accused having been seen by him armed with weapons stained with blood.

Nirmal Singh PW5, signed the inquest report Ex.PE, Balraj Singh, ASI, PW6, brought the Acquaintance Roll of Bhajan Singh. He stated that the leave salary, to the extent of Rs.77,840/- was paid to Bhajan Singh, deceased. He proved, Ex.PH, attested to be true photocopy the Acquaintance roll. Jarnail Singh, SI, Cashier, 80 Battalion, PAP Lines, Jalandhar, PW7, brought the original Acquaintance Roll. He deposed that he used to disburse the amount of the officials of 80 Battalion, PAP Lines, Jalandhar. He further stated that a sum of Rs.77,840/- was disbursed to Bhajan Singh, on 02.07.2002, and his signatures were obtained against the same. Onkar Singh, character Roll Clerk, PW8, was dealing with the service record of the officials in 80 Battalion, PAP Lines, Jalandhar. He brought the service record of Bhajan Singh, constable. He further stated that Bhajan Singh, retired on 31.5.2002. He proved Ex.PJ, attested to be true photocopy of the order of his retirement. He also brought, Ex.PK, attested to be true photocopy of the sanction, regarding leave encashment of Bhajan Singh. He further stated that the amount or leave encashment, was Rs.77,840/-. Bhajan Singh had submitted the list of his family members. He also brought the original application of Bhajan Singh and proved, Ex.PL, attested to be true copy thereof. He also brought the pension case file of Bhajan Singh. He proved Ex.PM, attested to be true photocopy of pension papers of Bhajan Singh. He also brought the joint photograph of Bhajan Singh and his wife, which was submitted by Bhajan Singh, alongwith the pension papers.

Jagir Singh, HC, PW9 was handed over the dead body of an unknown person, and he got the post mortem examination conducted thereon. He also produced the shirt, Ex.P1, trouser (pajama) Ex.P2 and underwear, Ex.P3, of the deceased which were handed over to him, by the

doctor, before Tarlochan Singh, Inspector/SHO, P.S. Bholath. Balbir Singh, constable PW10 delivered the special report, Ex.PQ. Vijay Anand, PW11, prepared the scaled map, Ex.PR. Bhajan Singh, constable PW12, was handed over the parcels containing Gandasi, Kirpan and Datar duly sealed and he took the same to the laboratory for deposit and deposited the same. Sanjiv Kumar, PW13, took the photographs and proved Ex.P11 to Ex.P15 and the negatives, thereof, Ex.P6 to Ex.P10.

HC Sukhwinder Singh PW14 stated that Tarlochan Singh, Inspector, deposited with him, one parcel, containing parna and chappal and he deposited the same in the Malkhana. He further stated that on 12.7.2002, one parcel, containing the clothes of the deceased was produced before him by Tarlochan Singh, Inspector, which was duly sealed and he deposited the same in the Malkhana. He further stated that on 14.7.2002, one parcel, containing Kirpan, duly sealed one parcel, containing Gandasi, duly sealed, one parcel, containing Datar, duly sealed and one parcel containing one iron rod (saria), alongwith specimen impressions of the seal were presented before him, and he deposited the same in the Malkhana. He stated that the parcel of Kirpan, Datar and Gandasi were handed over to Bhajan Singh constable, on 30.7.2002, for depositing the same, in the forensic science Laboratory, Chandigarh with seals intact. He further stated that on 12.7.2002, son of Bhajan Singh, deceased, came to the Police Station alone for the purpose of identification of the clothes, and he handed over the parcel, containing Chappal and Parna, to the SHO. Pritam Singh, SI, PW15, arrested Surinder Kaur, accused, on 9.9.2002, vide memo Ex.PT.

22. ASI Sarabjit Singh PW16 joined Tarlochan Singh Inspector/SHO P.S. Bholath, during the course of investigation. He proved various

memos. PW17-Jaswinder Singh, ASI recorded the FIR, Ex.PC/2. He also proved, Ex. PQ, the special report. PW18-Tarlochan Singh, Inspector, the then SHO, P.S.Bholath, the Investigating officer, in this case, proved various memos. The broad features of his testimony already stand noticed while summoning up the facts of the case and need not be reiterated.

16. Thereafter, the PP tendered into evidence, Ex. PGG, report of the Forensic Science Laboratory. He also gave up Dr. H.L.Mehmi, Tarlok Singh, Mulkha Singh, Gurvinder Singh, Constable Mohan Singh, SI, Balwant Singh, constable and Mohinder Singh PWs as unnecessary whereas Ramesh Kumar and Darbari Lal, PWs as having been won over by the accused. He gave up Gurdip Singh, PW as having died and closed the prosecution evidence.

17. The statement of the accused were recorded under section 313 Cr.P.C. They were put all the incriminating circumstances appearing against them in the prosecution evidence. They pleaded false implication. It was admitted by Sahib Singh, accused that Rajwinder Singh was the son of Bhajan Singh deceased. It was also admitted by him that Surinder Kaur, accused, is his mother, whereas, Jatinder Singh, is his brother, while Prabhu was their servant, whereas, Pardeep Kumar (Juvenile) was related to Surinder Kaur. It was further stated by Sahib Singh, accused, in his statement under section 313 Cr.P.C. that he alongwith his mother, brother, relation and servant were implicated in this case at the instance of Rajwinder Singh and Gurmej Singh, Prosecution witnesses. It was stated that Rajwinder Singh and Gurmej Singh, bore ill will and grudge against Bhajan Singh, deceased due to the fact, that he was staying at village Bholath, against their will and they had also suspicion that Bhajan Singh deceased had paid the entire pensionary benefits, to Surinder Kaur, his mother. It was further stated by him that due to

that ill will and grudge, Rajwinder Singh, and Gurmej Singh conspired to eliminate Bhajan Singh and with the active connivance of the local police, he alongwith his co-accused had been falsely implicated, in this case.

18. Jatinder Singh, accused, in his statement under Section 313 Cr.P.C. took up the same pleas, as were taken up by Sahib Singh, accused, in his statement, under section 313 Cr.P.C.

19. Prabhu, accused, admitted in his statement under Section 313 Cr.P.C. that he was a servant of Surinder Kaur, co-accused at the relevant time. He also stated he was falsely implicated in this case.

20. Surinder Kaur, accused also took up the same pleas in her statement as were taken up by Sahib Singh accused in his statement under of section 313 Cr.P.C.

21. Based on the evidence led, while Surinder Kaur was acquitted of the charges framed against her, the appellants came to be convicted and sentenced by the Court of Addl. Sessions Judge, Exercising the Powers of Sessions Judge, Kapurthala vide judgment and order of sentence dated 30.01.2004 as under:-

Convicts	Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
Sahib Singh	302 IPC r/w 34 IPC	Imprisonment for life	Rs.2000/-	RI for 01 month
Prabhu	302 IPC r/w 34 IPC	Imprisonment for life	Rs.2000/-	RI for 01 month
Jatinder	302 IPC r/w 34 IPC	Imprisonment for life	Rs.2000/-	RI for 01 month

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

23. The learned counsel for the appellants contends that the judgment of conviction cannot be sustained. The occurrence purportedly took

place on the night of 09.07.2002. The FIR came to be registered when one Jaswant Lal PW2 discovered the body on 11.07.2002. It was only thereafter that the statement of Rajwinder Singh PW3, the son of the complainant was recorded under Section 161 Cr.P.C. on 12.07.2002 wherein he claimed himself to be a witness of the occurrence in which the accused persons assaulted his deceased father. The statement of Gurmej Singh (PW4) the brother of the deceased and uncle of PW3-Rajwinder Singh was recorded under Section 161 CPC. In the said statement recorded during the course of investigation, he narrated the fact that he had seen the accused on the night of the occurrence with bloodstained weapons.

24. While elaborating his arguments, he contends that as regards Rajwinder Singh PW3, his version that the accused persons assaulted his father in his presence at about 08.30-8.45 PM on 09.07.2002 cannot be believed. He chose not to interfere or raise a noise to approach the Investigating Agency or inform his uncle Gurmej Singh with whom he was admittedly residing after his father had started residing with Surinder Kaur. The said conduct of the son of the deceased is unnatural and belies his presence at the spot. As regards PW4-Gurmej Singh, it is contended that his statement of having seen the accused armed with bloodstained weapons and thereafter not making an attempt to find out the whereabouts of his brother till the registration of the FIR makes his conduct unnatural and version doubtful.

25. He therefore, contends that the impugned judgment was liable to be set aside and the accused/appellants be acquitted of the charges framed against them.

26. On the other hand, the learned State counsel contends that PW3-Rajwinder Singh, the son of the deceased was a young boy of the age of 18

years got scared and fled away from the spot. On account of this fear he did not disclose the factum of the accused persons assaulting the deceased until the FIR came to be registered. In fact, the medical evidence is totally in consonance with the ocular account. The recovery of one bloodstained Kirpan came to be effected from the possession of Sahab Singh alias Sonu vide recovery memo Ex.PX, recovery of one bloodstained Gandasi came to be effected from the possession of Jatinder Singh alias Bhondu vide recovery memo Ex.PY and recovery of bloodstained dattar came to be effected from the possession of Prabhu vide recovery memo Ex.PZ. He, therefore, contends that no fault could be found with the well-reasoned judgment of conviction passed by the Trial Court and the present appeal was liable to be dismissed.

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

28. As per the case of the prosecution, PW2-Jaswant Lal discovered the body of an unknown person on 11.07.2002. Thereafter, the statement of PW3-Rajwinder Singh was recorded on 12.07.2002 with the allegations that on 09.07.2002 he was accompanying his father when he was assaulted by the deceased. Similarly, the statement of PW4-Gurmej Singh, the brother of the deceased was recorded to the effect that he had seen the accused persons armed with bloodstained weapons on the night of the occurrence.

29. The version of Rajwinder Singh PW3 cannot be accepted to be correct. Undoubtedly, he is of the age of 18 years and the son of the deceased. If he had been accompanying the deceased on 09.07.2002 when he was assaulted then, even if he had chosen not to interfere while his father was being assaulted on account of fear, nothing prevented him from later informing his uncle Gurmej Singh with whom he was residing, other respectables or the police on the night of the occurrence or the very next

morning that his father had been assaulted by the accused. His statement to the effect that he came to know that a body had been discovered on 11.07.2002 and it was only then that he approached the police shows the most unnatural conduct on the part of a son of a deceased which belies his presence at the place of occurrence witnessing the same. Therefore, his statement cannot be believed.

30. As regards PW4 Gurmej Singh, he is the real brother of the deceased. PW3-Rajwinder Singh was residing with him for the last 10-15 years. As per his case, he had come to Bholath to look for Rajwinder Singh. When he saw near the cremation ground of Bholath the accused persons carrying bloodstained weapons, he returned back to his village. Strangely, neither did he inform PW3-Rajwinder Singh about what he had seen nor did he ask Rajwinder Singh PW3, where he had been on the night of 09.07.2002 specially when it is his case that he had gone to look for him (Rajwinder Singh). Further, this witness did not attempt to inform the police or any respectable about what he had seen. He did not even make an attempt to find out about his brother deceased Bhajan Singh. Therefore, his conduct is also most unnatural and makes his presence at Bholath seeing the accused highly doubtful.

31. As regards the recovery of a bloodstained Kirpan from Sahib Singh, a bloodstained Gandasi from Jatinder Singh @ Bhondu and bloodstained dattar from Prabhu, once the eye-version account is disbelieved, mere recovery of weapons would not further the case of the prosecution as has been held in the case of *State of Madhya Pradesh Versus Kriparan, 2005 SCC (Cri) 830* and *Suryavir Versus State of Haryana, 2022(1) RCR (Criminal) 866*.

32. In view of the aforementioned discussion, we find considerable merit in the present appeal. The same is accepted. The impugned judgment dated 22/28.04.2004 passed by the Addl. Sessions Judge, Exercising the Powers of Sessions Judge, Kapurthala is set aside and the accused/appellants are acquitted of the charges framed against them.

(JASJIT SINGH BEDI)
JUDGE

(GURVINDER SINGH GILL)
JUDGE

15.07.2025

JITESH

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