



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

103

1.

CRA-D-485-DB-2004

Date of decision: 12.08.2025

Tejinder Singh

.....Appellant

Versus

State of Punjab

.....Respondent

2.

CRR-972-2005

Date of decision: 12.08.2025

Soma Rani

.....Petitioner

Versus

Tejinder Singh and another

.....Respondents

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

Present : Mr. Kulvir Narwal, Advocate
for the appellant in CRA-D-485-DB-2004 and
for respondent No.1 in CRR-972-2005.

Mr. Mohit Kapoor, Sr. DAG, Punjab.

None for the petitioner in CRR-972-2005.

MANJARI NEHRU KAUL, J.

1. This order shall dispose of CRA-D-485-DB-2004 filed by the appellant/accused and CRR-972-2005 filed by the petitioner/mother of deceased Ashwani Pal Singh alias Mintu, as they both arise out of the same FIR and impugned order and similar questions of facts and law are involved in them. In CRA-D-485-DB-2004, the appellant/accused is challenging his conviction while in CRR-972-2005, the petitioner is prays for enhancement of sentence of the appellant/accused from life imprisonment to death sentence.

2. For the sake of convenience, the facts are being taken from CRA-D-485-DB-2004.

3. The instant appeal arises from the judgement of conviction and order of sentence both dated 16.04.2004 passed by learned Sessions Judge, Hoshiarpur, whereby appellant/accused Tejinder Singh was convicted under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default of which, he has to further undergo rigorous imprisonment for 01 year.

4. The conviction of the appellant/accused rests entirely upon circumstantial evidence, principally comprising alleged motive, certain injuries on the person of the appellant, and the "last seen" account of PW-8 Manminder Singh alias Mitha.

5. Upon a careful reappraisal of the entire material on record, we find the evidence against the appellant to be wholly insufficient to sustain his conviction. The impugned judgement suffers from grave infirmities in appreciation of evidence and misapplication of settled principles governing cases based on circumstantial evidence.

6. The case of the prosecution may be summed up in brief as thus :

(a) The FIR (Ex.PJ/1) was registered on the statement of PW-9 Prem Lata, sister of Ashwani Pal Singh alias Mintu (hereinafter referred to as 'deceased'). She stated that her bachelor brother i.e. deceased, had left home at 6.00 A.M. on 02.02.2002 for Hoshiarpur vegetable market. At about 9.45 A.M., she learnt that his body was lying on the road between Chhauni Kalan and Peer Baba Yaqub Shah, with vegetables

scattered nearby. The deceased had multiple sharp weapon injuries.

(b) The complainant while recording her statement alleged that the appellant was having illicit relations with Kiran Bala, wife of Shamsher Singh (her brother), to which the deceased often objected. She also referred to an incident involving one Raj Kumar alias Raju, who suspected the deceased of misconduct with his wife. On these suspicions, the complainant expressed belief that either the appellant or Raj Kumar, in connivance with others, might have murdered her brother.

(c) Investigation was conducted by PW-11 SI Jiwan Kumar, who carried out inquest (Ex.PC), prepared site plan (Ex.PK), seized clothes of the deceased vide memo Ex.PL and recorded statements of other witnesses. The appellant was arrested on 23.02.2002. On his arrest, no weapon or other incriminating material was recovered from him.

(d) On completion of investigation challan was presented before the competent court which in turn committed the case to the Court of Sessions. The appellant was charged for offence under Section 302 IPC, to which he pleaded not guilty and claimed trial.

(e) The prosecution examined 10 witnesses, including PW-1 Dr. S.S. Dardi, who conducted the post-mortem on the deceased and in the post-mortem report (Ex.PA) opined that three different weapons were used to carry out the crime.

(f) PW-2 Dr. Ram Parkash who medico legally examined the appellant.

(g) PW-8 Manminder Singh alias Mitha, projected as a last seen witness, who turned hostile; PW-9 Prem Lata (complainant) and PW-10 Shamsheer Singh (brother of deceased).

(h) Certain witnesses were given up as unnecessary, including Kiran Bala, who was given up having been won over.

(i) In his statement under Section 313 of the Cr.P.C. all the incriminating material coming against the appellant was put to him to which he claimed false implication and denied the allegations, and instead asserted that he was picked up from his house on 02.02.2002 but shown as arrested much later. He maintained that he had no illicit relations with Kiran Bala, and in fact had reprimanded her family for her conduct, causing animosity against him.

(j) The learned Trial Court convicted the appellant solely on the strength of the alleged motive, the injuries found on the left hand of the appellant.

Submissions on Behalf of the Appellant

7. Learned counsel for the appellant vehemently urged that the instant case was a case of blind murder, and was based entirely on circumstantial evidence. No eyewitness existed; and even otherwise the circumstantial evidence being relied upon by the prosecution was of an extremely weak nature.

8. It was also argued that the motive attributed to the appellant to commit the murder was entirely speculative—mere suspicion about illicit relations, unsupported by any independent proof,

and equally consistent with animosity against the appellant for reprimanding Kiran Bala. He also referred to the opinion given by PW-1, Dr. S.S. Dardi, that the injuries caused to the deceased were with three different weapons, which as per him clearly ruled out a single assailant theory and undermined the very foundation of the case of the prosecution. It was still further argued that strangely certain injuries found on the hand of the appellant were taken against him and linked with the murder. He submitted that no doubt as per the medico legal examination of the appellant there indeed were three injuries found on his hand, however, they were of varying ages (upto two months, two weeks, and more than a week old), inconsistent with the date of occurrence, and trivial in nature; being an agriculturist, such injuries could have been sustained in daily work also.

9. Furthermore, it was argued that PW-8 Manminder Singh alias Mitha, the “last seen” witness, did not support the case of the prosecution and categorically denied seeing the appellant near the spot. Furthermore, no weapon or incriminating recovery was collected linking the appellant to the crime. It was also argued that in the FIR (Ex.PJ/1) the complainant had named two possible suspects, reflecting uncertainty and reliance on conjecture. A prayer was, therefore, made that in the wake of the evidence produced, the prosecution had not been able to bring home the guilt of the accused, which however, had been erroneously ignored by the learned Trial Court, while passing the impugned order.

Submissions on Behalf of the State

10. *Per contra*, learned State counsel while opposing the submissions made by the learned counsel for the appellant, argued that the case at hand was based on circumstantial evidence and the illicit relationship between the appellant and the sister-in-law of the deceased was a strong motive to carry out the crime. PW-9 Prem Lata and PW-10 Shamsheer Singh, supported the case of the prosecution and stood their ground. It was also argued that the injuries on the appellant's hand were consistent with a possible struggle during the assault. Hence, such minor errors in estimating the age of injuries by the doctor could occur for which the accused could not derive any benefit.

Findings of the Court

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

12. This Court must determine :

- (i) whether the circumstances proved form a complete chain pointing unerringly to the guilt of the appellant;
- (ii) whether the motive alleged is proved and sufficient;
- (iii) whether the injuries on the appellant are incriminating; and
- (iv) whether the last seen theory stands proved.

13. It is well settled in cases resting on circumstantial evidence—all circumstances must be fully established, consistent only with the hypothesis of guilt, and exclude every possible hypothesis of

innocence. The present case falls woefully short of that standard.

14. The alleged motive is the appellant's supposed illicit relationship with Kiran Bala, sister-in-law of the deceased. This is based solely on oral assertions of PW-9 Prem Lata (complainant) and PW-10 Shamsheer Singh, husband of Kiran Bala and is contradicted by the defence of the appellant that he had reprimanded Kiran Bala's family. Significantly, the FIR itself shows the complainant was unsure and suspected two different persons. Kiran Bala who was cited as a prosecution witness was given up as having been won over.

15. Motive, even if assumed, cannot take the place of proof. When the prosecution is otherwise weak, motive alone cannot be the basis for conviction. In the present case, the learned Trial Court gravely erred in attaching undue importance to three minor injuries/scars on the left hand of the appellant. The medical evidence is clear and as per PW-2 Dr. Ram Parkash is as follows: -

“(1) A pale and white, 2x0.5 cm size scar mark, slightly obliquely present on the palmar aspect of the distal phalanx of (L) thumb.

(2) A scar mark, 1.5x1 cm in size, reddish in colour present on the palmar and lateral aspect of the proximal phalanx of the Index finger of the (L) Hand.

(3) A healing wound with granulation tissue present in the centre 0.8x0.8 cm in size, placed on the palmar aspect of (L) Hand at the base and lateral side of the middle finger on its M.P. Joint.

Injuries No.1 to 3 were simple in nature and the probable duration for injury No.1 was upto two months, for injury No.2 it was upto two weeks and for injury No.3 it was more than one week. However, for to be more conclusive, expert opinion from the Govt. Medical was sought. The kind of weapon used could not be ascertained Ex.PD is the carbon copy of MLR. Ex.PE is the diagram showing the seats of injuries. The possibility of the injuries having been

caused in a fight with some body, cannot be ruled out."

16. The occurrence took place on 02.02.2002. The ages of the injuries as opined by PW-2 Dr. Ram Parkash are inconsistent with the theory that the injuries were sustained during the murder. PW-2 Dr. Ram Parkash could not link them to any particular weapon. Being an agriculturist, the appellant could have sustained them during routine work. It needs to be cautioned that injuries on the accused, without clear nexus to the occurrence, are insufficient to sustain guilt.

17. PW-8 Manminder Singh alias Mitha, the only last seen witness, did not support the prosecution and was declared hostile. His categorical denial severs a vital link in the prosecutions chain. It is trite that hostile testimony, unless corroborated, cannot form the sole basis for conviction.

18. No weapon of offence was recovered from the appellant. The post-mortem report (Ex.PA) indicates three different weapons were used, suggesting multiple assailants, contrary to the prosecution's single-accused theory. The incident occurred on a public road in daylight, yet no independent witness saw the appellant at or near the spot.

19. The cumulative effect of the above is that the prosecution has failed to establish a complete chain of circumstances consistent only with the guilt of the appellant. The evidence is marred by conjectures, material gaps, and contradictions. If two views are possible, the one favourable to the accused must be adopted.

20. Here, the circumstances do not exclude reasonable doubt about the involvement of the appellant in the crime in question. The learned Trial Court's reliance on speculative inference from minor injuries, coupled with a weak motive and a hostile "last seen" witness, is wholly unsustainable.

21. In view of the foregoing discussion, we find that the learned Trial Court has erred in holding the appellant guilty and convicting him accordingly, solely on the strength of alleged motive and the injuries found on the left hand of the appellant. Consequently, the appeal filed by the appellant/accused Tejinder Singh is allowed and he is acquitted of the charges framed against him.

22. So far as CRR-972-2005 filed by the petitioner/mother of the deceased for enhancing the sentence of appellant/accused Tejinder Singh from life imprisonment to death sentence is concerned, since appellant/accused Tejinder Singh is acquitted of the charges framed against him, no question arises for enhancement of the sentence of appellant/accused Tejinder Singh. The instant revision petition stands dismissed accordingly.

(MANJARI NEHRU KAUL)
JUDGE

(H.S. GREWAL)
JUDGE

12.08.2025

Vinay

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