

CRA-D-791-DB-2004 (O&M)

-1-

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

(103)**CRA-D-791-DB-2004 (O&M)****Date of decision : 22.09.2025**

Amarjit Singh

... Appellant

Versus

State of Punjab

... Respondent

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

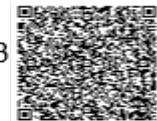
Present:- Mr. Tapan Masta, Advocate (*Amicus Curiae*) for the appellant.

Mr. Amit Rana, Senior DAG, Punjab.

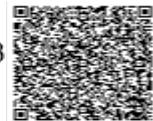
H.S. Grewal, J.

1. The present appeal has been preferred by the appellant against the judgment of conviction and order of sentence dated 15.05.2004 passed by the learned Sessions Judge, Jalandhar in case F.I.R. No.39 dated 02.04.2002, registered at Police Station Lambra, whereby he has been convicted under Section 302 IPC and sentenced to undergo life imprisonment, to pay a fine of Rs.1,000/- and in default thereof, to undergo further rigorous imprisonment for three months.

2. The case of the prosecution is that the complainant-Mohinder Kaur was married to Mohan Singh (now deceased). Mohan Singh had five brothers. All were married and were living separately. They had also partitioned their

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ancestral property. The old house in village Lallian Kalan had come to the share of Mohan Singh and to his brother Amarjit Singh (appellant) in equal shares, but Mohan Singh had constructed a dera in the fields and was residing there with his family. The portion of the ancestral house, which he had in the village was rented out by the said Mohan Singh. However, the appellant- Amarjit Singh used to harass the tenant of Mohan Singh. The appellant also used to proclaim that he would not allow any tenant to live in the house. The complainant also alleged that on 31.03.2002, there was a Kabaddi tournament in their village Lallian Kalan. On that day, she along with her husband Mohan Singh and her son Sukhjinder Singh @ Jagga were going from their *dera* to village Lallian Kalan. It was about 06:00 P.M. when they reached near the village, Surinder Singh (younger brother of Mohan Singh) and Sukhwinder Kaur w/o Surinder Singh met them and they started talking with each other. In the meantime, Amarjit Singh (appellant), who was holding a dang in his hand, came there and started abusing the complainant as well as her husband and son. Mohan Singh resisted the appellant but he had challenged that he would teach him a lesson for bringing a tenant from outside and getting the house occupied from him. Thereafter, the appellant had given a dang blow on the head of Mohan Singh with an intention to kill him. After suffering the dang blow, Mohan Singh fell down on the ground. The complainant raised hue and cry on which the appellant fled away from the spot alongwith the dang. The alleged occurrence was witnessed by Sukhwinder Kaur as well. Then Surinder Singh arranged for the conveyance and took Mohan Singh to Satnam Memorial

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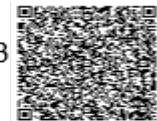
Hospital, Khambra, but the condition of Mohan Singh deteriorated and thereafter, he was shifted to Satyam Hospital, Kapurthala Chowk, Jalandhar.

3. The complainant had alleged that the motive behind the assault was that whenever she and her husband rented out their portion of the house, the appellant—Amarjit Singh used to harass the tenants and force them to vacate the premises. Although efforts were made to settle the matter amicably but the compromise could not be materialized.

4. Therefore, on the basis of the complaint of Mohinder Kaur, the instant FIR was registered against the appellant for an offence punishable under Section 307 IPC. On 05.04.2002, Mohan Singh expired in Satyam Hospital, Jalandhar and thereafter, the offence was converted into Section 302 IPC and the post mortem examination on the dead body of Mohan Singh was conducted. On 06.04.2002, the appellant was arrested and on his disclosure statement, dang was recovered.

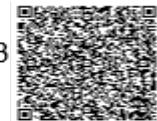
5. After completion of investigation, challan was presented against the appellant and charge under Section 302 IPC was framed against him to which he pleaded not guilty and claimed trial.

6. Learned counsel for the appellant submits that the trial Court had erred in convicting the appellant under Section 302 IPC as the prosecution had failed to establish the essential ingredients thereof. Learned counsel points out material contradictions in the statements of the prosecution witnesses regarding the sequence of events, the presence of witnesses at the spot and the circumstances in which Mohan Singh sustained injuries. The presence of related witnesses (wife, son, and relative of the deceased) as eye-witnesses was



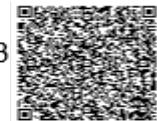
highlighted to submit that the possibility of exaggeration and false implication could not be ruled out, particularly due to strained relations within the family. He further submits that the medical evidence is inconsistent with prosecution version inasmuch as PW1 Dr. Jasbir Singh had admitted that the head injury found on the deceased could also result from a fall on a hard surface. PW2 Dr. Rishi Mahajan also admitted that no external injuries were visible except after surgery, thus lending support to the defence version that Mohan Singh might have fallen from a scooter while being drunk. In his defence, the appellant had examined hospital staff and Doctors, who proved documents (Ex.DA and Ex.DB) suggesting that the medical record was partly based on information given by relatives and no cause of injury was officially mentioned. He also submits that the alleged motive i.e., disputes over tenants in the ancestral house, was weak and insufficient to establish an intention to commit murder of his real brother. Moreover, no previous incident of serious altercation was brought on record by the prosecution. He, therefore, prays for allowing the appeal, setting aside the impugned judgment and order of sentence and acquitting the appellant of all the charges.

7. On the other hand, learned State counsel submits that the prosecution has successfully proved its case beyond reasonable doubt by relying upon the consistent testimonies of eye-witnesses PW6 Mohinder Kaur (wife of deceased), PW7 Sukhwinder Kaur (relative) and PW9 Sukhjinder Singh (son of deceased). Their version was natural, trustworthy and fully supported by the medical evidence, leaving no scope for doubt. Moreover, the post mortem report and the testimony of PW1 Dr. Jasbir Singh established that

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the deceased had sustained a grievous head injury caused by a blunt weapon, sufficient in the ordinary course of nature to cause death. The operation records and death summary (proved by PW2) confirmed that the deceased succumbed to this injury after prolonged treatment. Learned State counsel also submits that the dang (Ex.P1), recovered pursuant to the appellant's disclosure statement, was consistent with the injury sustained by the deceased. This recovery strongly connected the appellant with the crime and was an incriminating circumstance. He also submits that there was a long-standing dispute between the appellant and the deceased regarding letting out their portion of the ancestral house. The appellant repeatedly threatened the tenants and proclaimed that he would not allow outsiders to occupy the house. The presence of PW6 Mohinder Kaur, PW7 Sukhwinder Kaur and PW9 Sukhjinder Singh at the scene was natural being close relatives and their presence could not be doubted. Their testimony could not be discarded merely on the ground of relationship, particularly when it was consistent and corroborated by medical and circumstantial evidence. He, therefore, submits that there is no illegality or perversity in the judgment of the trial Court which would require interference by this Court and the appeal deserves to be dismissed.

8. We have heard learned counsel for the parties and have perused the material available on record.
9. In order to substantiate the charge against the appellant, the prosecution had examined as many as 10 witnesses.

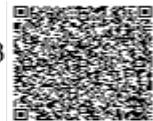
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10. PW1 Dr. Jasbir Singh, Medical Officer, Civil Hospital, Jalandhar had deposed that on 06.04.2002, at about 10:30 A.M., he had conducted post mortem examination on the dead body of Mohan Singh and had found the following injuries:-

- “1. *U shaped stitched surgical wound 28 cm long present on the scalp extending from frontal area to the left of midline backwards and then to the left and downwards and then anteriorly and downwards above and in front of left ear.*
2. *Surgical stitched wound size .75 cm in length present 6 cm above and behind the left ear.”*

Dr. Jasbir Singh had further opined that the cause of death was due to head injury, which was sufficient in the ordinary course of nature to cause death. The aforesaid injuries were *ante mortem* in nature and could be the result of blow of dang (Ex.P1). In his cross-examination, he admitted that the possibility of such an injury could not be ruled out if the head struck against a hard surface with great force.

11. PW2 Dr. Rishi Mahajan, Emergency Medical Officer, Satyam Hospital and Trauma Centre, Jalandhar had deposed that Mohan Singh was admitted in their hospital on 01.04.2002. He had examined Mohan Singh and found no external injury on his person. CT Scan was done on the basis of which it was opined that it was a case of post traumatic haemorrhage in the left tempo parietal region within thin subdural hematoma and middle line shift of 14 mm to right side. There was diffuse cerebral oedema. The patient was operated upon for the evacuation of haematoma on the same day, but his

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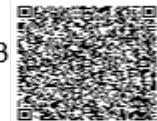
condition remained serious. The operation note was proved as Ex.PE and the operation was performed by Dr. Rajesh Pasricha, who was assisted by him. The police had made an application Ex.PF asking for the opinion about the nature of injuries and he (PW2) reported vide endorsement Ex.PF/1 that the said injury was dangerous to life and that Mohan Singh was unfit to make the statement. He further deposed that the patient had died in the hospital on 05.04.2002 at 02:40 P.M. on account of the injuries referred above. He also proved the death summary as Ex.PH, which was written and signed by him. In his cross-examination, he had deposed that the patient was brought by Surjit Singh and Surinder Singh (brother). He was the first Doctor who had attended the patient.

12. PW3 Constable Gulzar Singh and PW4 Head Constable Nishan Singh are formal witnesses.

13. PW5 Dalip Singh, draftsman had deposed that on 15.05.2002, he had visited the place of occurrence and at the instance of Mohinder Kaur (complainant), he had prepared the site plan (Ex.PQ).

14. PW6 Mohinder Kaur, who is the complainant in this case, had reiterated the facts which she had stated to the police in her initial statement (Ex.PL). In her cross-examination, she had denied the suggestion that her husband was heavily drunk on that day and he had received head injury as a result of fall from the scooter.

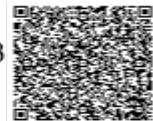
15. PW7 Sukhwinder Kaur, who was an eye-witness of the occurrence, had corroborated the version as stated by PW6 Mohinder Kaur and has supported the prosecution case. She deposed that her husband (Surinder

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Singh) had five brothers. They all were residing separately and they were also separate in cultivation. Amarjit Singh (appellant) and Mohan Singh (deceased) were given the old house in the village, but Mohan Singh had shifted his residence in the fields. Mohan Singh had rented out his share of the old House to the tenant and the appellant used to harass those tenants and used to compel them to vacate the house. In her cross-examination, she deposed that on that day, Mohan Singh (deceased) was not drunk. Her husband had taken Mohan Singh to Satnam Hospital. She denied that her husband had stated that Mohan Singh sustained injuries under the influence of liquor due to a fall on the road.

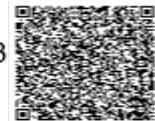
16. PW8 Head Constable Swaran Singh had deposed that on 05.04.2002, he was associated in investigation with ASI Gurdev Singh who had handed over the dead body of Mohan Singh from Satyam Hospital and the same was taken to Civil Hospital, Jalandhar for post mortem examination. He further deposed that as long as the dead body remained in his custody, no one was allowed to touch the same. He further deposed that on 07.04.2002, the appellant was interrogated in his presence, who had disclosed that he had kept concealed a *dang* in his field in a room under the heap of chaff. His disclosure statement Ex.PS was recorded which was signed by him and the appellant. Dang Ex.P1 was recovered in pursuance to the disclosure statement of the appellant which was taken into possession vide memo Ex.PT.

17. PW9 Sukhjinder Singh, who is son of Mohan Singh(deceased) and an eye-witness of the incident, had corroborated the version as mentioned by PW6 Mohinder Kaur and PW7 Sukhwinder Kaur.

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18. PW10 SI Gurdev Singh, who is the Investigating Officer in this case, had deposed that on 02.04.2002, he was posted in Police Station Lambra, District Jalandhar. He had received a slip(ruqa) from Satyam Hospital wherein injuries of Mohan Singh were mentioned. Thereafter, he went to Satyam Hospital and recorded the statement of the complainant. Later he went to the place of occurrence and prepared the inquest proceedings Ex.PC. The dead body of Mohan Singh was sent for post mortem examination. On the death of Mohan Singh, Section 302 IPC was added. He also deposed that the appellant was arrested and on 06.04.2002, he was produced before the Court. He had also deposed about the recovery of dang (Ex.P1). He also deposed that he had moved an application Ex.PF to the Doctor to know the nature of injuries on the person of Mohan Singh and the kind of weapon with which these could be caused and the Doctor vide endorsement Ex.PF/1 had reported that the injury on the person of Mohan Singh was dangerous to life and it was caused by a blunt weapon.

19. After closing the prosecution evidence, the statement of the appellant under Section 313 Cr.P.C. was recorded wherein he had denied all the allegations and pleaded innocence. He had pleaded that Mohan Singh was heavily drunk on the date of occurrence and he had received the head injury as a result of fall from the scooter. No such incident had taken place as alleged by the prosecution witnesses and he has been falsely implicated in this case due to party faction in the village.

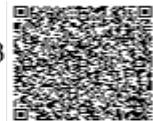
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20. In his defence, he had examined DW1 Subhash Chander, Record Keeper, Satyam Hospital, Jalandhar, who had brought the case file (medical record) of Mohan Singh (deceased).

21. DW2 Dr. Zinny had deposed that she was working as a Doctor in Satyam Hospital, Jalandhar. She stated that she had seen the slip (Ex.DA) pertaining to Mohan Singh, which was issued during the period when she was employed at Satyam Hospital, Jalandhar. She further deposed that the contents of the slip were based on the information provided by Mohan Singh's relatives as he was unconscious at that time. She further deposed that it is correct that the scooter accident is not recorded in the slip, but ordinarily the cause of death is not mentioned in the slips forwarded to the police. She admitted that the name of the relative who supplied the information is neither mentioned nor signed on the slip, though the same is reflected in the bed-head ticket. She further admitted that there is overwriting at Point 'A to A' on Ex.DA, which, according to her, occurred inadvertently. She denied the suggestion that the overwriting was done intentionally or Ex.DA is a forged document.

22. DW3 Sukhwinder, Operation Theatre Assistant, Satnam Singh Memorial Hospital, Jalandhar and DW4 Jasbir Singh, Manager, Satnam Singh Memorial Hospital, Jalandhar deposed that the summoned record was not available in the Hospital.

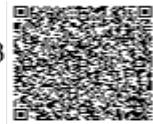
23. DW5 Dr. Baljit Singh had deposed that in March, 2002, he was working as Medical Officer in Satnam Singh Memorial Hospital, Jalandhar. He worked there for about 18 months. Dr. Sanjiv Aggarwal was also working in that hospital. He had seen Ex.DB. The first sheet of Ex.DB is proved to be in



the hand writing of Sister Gurpreet Gill. The second sheet was in his hand writing. On the third sheet, upper half was in the hand writing of Dr. Shangara Singh, while the lower half was in the hand writing of Dr. Sanjiv Aggarwal, which he identified. The fourth sheet was only printed instructions which are generally signed by the attendant of the patient. Ex.DB is the attested copy. He also saw Ex.DC and identified the hand writing of Dr. Sanjiv Aggarwal. The case history written on Ex.DB is partly given by the attendants of the patient or by the patient and partly is collected from the symptoms of the injured.

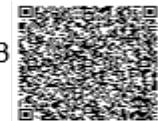
24. After considering the statements of all the witnesses and taking into account the evidence led by both the sides, the trial Court had convicted the appellant under Section 302 IPC and sentenced him to undergo imprisonment for life.

25. On a careful consideration of the evidence on record and the rival submissions given by the counsel for the parties, it is clear that the prosecution primarily relies on the testimonies of PW6 Mohinder Kaur (the complainant and wife of the deceased), PW7 Sukhwinder Kaur (relative) and PW9 Sukhjinder Singh (son of the deceased). They consistently stated that they were present at the spot when an altercation took place and the appellant inflicted a dang blow on the deceased. Though some minor variations are noticeable in their testimonies but there are no material contradictions that undermine the substance of their ocular version. Their testimonies on the crucial aspects remain uniform and reliable.



26. Although all the principal eye-witnesses (PW6, PW7 and PW9) are members/relatives of the deceased's family which is a relevant consideration when assessing possible bias or interest. It is well settled that mere relationship of a witness to the parties does not by itself discredit their testimony; it only affects the weight to be attached to it. The testimonies of PW6, PW7 and PW9 are substantially consistent on key points i.e. presence at the scene, the quarrel about letting out the house, the appellant striking the deceased with a dang and the deceased falling down thereafter. Although the witnesses are interested (relations of the injured/deceased) but it does not automatically discredit them and their evidence must be tested on the standards of probability, consistency and corroboration with other evidence. In our view their evidence, read with the medical and recovery evidence, is cogent enough to establish that the appellant struck the deceased with a blunt instrument on the head.

27. The ocular evidence has been duly corroborated by medical evidence in the form of testimony of PW1 Dr. Jasbir Singh, who performed the post mortem and found extensive head injuries (a long stitched scalp wound about 28 cm and another stitched wound), opining that the cause of death was head injury sufficient to cause death in ordinary course. Moreover, PW2 Dr. Rishi Mahajan, who treated the deceased initially and recorded that the injuries were dangerous to life, a subdural haematoma was evacuated and the deceased, thereafter, succumbed to the injuries. Thus, the medical evidence establishes the causal link between head injury and death.

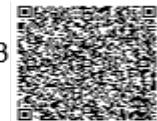


28. The recovery of the dang (Ex.P1) pursuant to the appellant's disclosure statement and the evidence of the Investigating Officer (PW10) clearly link the appellant to a blunt instrument that is capable of inflicting the injury found on the deceased. The recovery is a relevant and incriminating circumstance which corroborates the ocular testimony that a blow was struck with a blunt instrument. There is no material infirmity in the procedure of seizure disclosed on record which would render the recovery inadmissible or unreliable.

29. In the case in hand, the sole question for determination is whether the prosecution has proved its case beyond reasonable doubt that the appellant had the necessary *mens rea* for murder in terms of Section 302 IPC, or whether the act falls within culpable homicide not amounting to murder as per Section 304, Part II IPC.

30. No doubt, the prosecution has been able to prove the following circumstances on record:

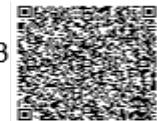
- “(i) The occurrence arose out of a sudden quarrel relating to a tenancy dispute;
- (ii) The appellant and the deceased were real brothers who already had family friction;
- (iii) Only a single blow with a dang was inflicted, which resulted in a grievous head injury and despite medical treatment, led to the death of the deceased and
- (iv) There is no credible material to suggest pre-planning or a deliberate intention to cause death.”

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31. The assault, as narrated by the eyewitnesses and viewed in the backdrop of the quarrel, appears to be a sudden and hasty act rather than a premeditated design to kill. The record does not disclose multiple or repeated blows, nor any conduct on part of the appellant that would reflect a clear intention to kill. Thus, though the blow was serious and ultimately proved fatal, the prosecution has not proved beyond doubt the specific intention to cause death or the certainty that death would result, which is an essential requirement for sustaining conviction under Section 302 IPC. Instead, they fit under Section 304 Part II IPC, where a person acts knowing that his act is likely to cause death, but without the clear intention to kill or to cause such an injury that he knows is likely to result in death. Here, the single serious blow, given suddenly in the heat of a quarrel over a domestic/land dispute, clearly falls into this category. Moreover, the deceased is the real brother of the appellant and Surinder Singh, who was an alleged eye-witness to the occurrence and younger brother of the appellant, had not stepped into the witness box.

32. In the present case, the incident appears to have occurred in the heat of the moment, without premeditation and without any deliberate intention to cause death, which is an essential ingredient for murder under Section 302 IPC. Accordingly, the conviction of the appellant is liable to be altered to one under Section 304 Part II IPC.

33. Since the FIR in the present case was registered on 02.04.2002 and the appellant has been facing protracted criminal proceedings for over two decades and as per the records, the appellant has already undergone an actual

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sentence for 03 years, 04 months & 28 days, we are, therefore, of the considered view that the sentence already undergone by him would meet the ends of justice for the offence punishable under Section 304 Part II IPC.

34. Consequently, the judgment of conviction and the order of sentence dated 15.05.2004 passed by the learned Sessions Judge, Jalandhar, with regard to the conviction Section 302 IPC is, hereby, set aside. However, the appellant is convicted under Section 304 Part II IPC and the sentence already undergone by him would be adequate for the offence punishable under Section 304 Part II IPC. The amount of fine imposed upon the appellant shall remain the same.

35. The appeal stands disposed of accordingly and pending application(s), if any, shall stand disposed of.

(MANJARI NEHRU KAUL)
JUDGE

22.09.2025
A.Kaundal

(H.S.GREWAL)
JUDGE

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