



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

101

1.

CRA-D-286-DB-2004

Date of decision: 11.08.2025

Rajbir Singh alias DholaAppellants

Versus

State of PunjabRespondent

2.

CRA-D-317-DB-2004

Date of decision: 11.08.2025

Jagjiwan Joshi alias Sonu alias RockyAppellant

Versus

State of PunjabRespondent

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

Present : Mr. G.S. Ghuman, Advocate
for the appellant in CRA-D-286-DB-2004.

Mr. Inderjit Sharma, Advocate and
Mr. Aman Sharma, Advocate as Amicus Curiae
for the appellant in CRA-D-317-DB-2004.

Mr. Mohit Kapoor, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The instant Criminal Appeals are directed against the judgement of conviction and order of sentence both dated 04.03.2004 passed by learned Sessions Judge, Amritsar, whereby accused Mahavir Singh along with appellants, Rajbir Singh @ Dhola and Jagjiwan Joshi @ Sonu @ Rocky, were convicted under Section 302 read with Section 34 of the IPC, for causing the death of Narinder Singh @ Goldy and sentenced accordingly.

Brief Background of the Case

2. According to the prosecution on 26.04.2002, a police party headed by SI Yogi Raj, PW-12, was present at Ghaa Mandi Chowk, Amritsar, in connection with routine patrolling in an official gypsy. At that time, PW-6 Jaspal Singh (complainant) made a statement before SI Yogi Raj which formed the basis of FIR (Ex.PL). PW-6 Jaspal Singh stated that he was engaged in fruit business in shops No.47-48 at the Sabzi Mandi. At about 11.00 A.M. that day, he along with his maternal uncle's son Narinder Singh @ Goldy (hereinafter referred to as 'deceased') son of Amar Singh, was proceeding towards the market in connection with business work. When they reached near a seed shop in Sabzi Mandi, close to Ganda Nallah, three accused—Rajbir Singh @ Dhola (armed with a *sua*), Mahavir Singh (armed with a *sua*) and Jagjiwan Joshi @ Sonu @ Rocky (armed with a *sua*)—arrived there.

3. Allegedly, accused Rajbir Singh @ Dhola (appellant in CRA-D-286-DB-2004) raised a *lalkara* stating, "*Goldy Nun Pharh Lao. Jo Is Naal Sada Jhagra Hoya see. Is Nun Us Daa Mazaa Cchakhaa Deo.*" Immediately thereafter, appellant Jagjiwan Joshi @ Sonu @ Rocky inflicted a *sua* blow on the left side of Goldy's head. Rajbir Singh @ Dhola followed with another *sua* blow on the head of Goldy, allegedly with an intention to kill. Goldy collapsed on the ground. When PW-6 Jaspal Singh raised an alarm, all three accused assaulted him with their respective *sus*, causing him injuries.

4. On hearing the commotion, PW-8 Saudagar Singh son of Joginder Singh, and other persons from the vicinity gathered. The

assailants, however, managed to flee with their respective weapons. PW-6 Jaspal Singh further stated that on the previous day (25.04.2002) there had been a quarrel between the deceased and the accused persons over some business matter, which was compromised with the intervention of the respectables, but the accused bore a grudge and attacked them the next day. On this statement (Ex.PF), PW-12 SI Yogi Raj made an endorsement (Ex.PF/2) and sent it to the police station, where formal FIR (Ex.PF/3) was registered by SI Randhir Singh. PW-12 SI Yogi Raj proceeded to the spot, prepared a rough site plan (Ex.PO) at the instance of PW-6 Jaspal Singh, and recorded the statement of eyewitness PW-8 Saudagar Singh, under Section 161 of the Cr.P.C. PW-6 complainant Jaspal Singh, found injured, was also advised to get him medically examined.

5. The Investigating Officer PW-12 SI Yogi Raj then visited Ajit Hospital, Amritsar, and moved an application (Ex.PB/1) seeking medical opinion on the fitness of the deceased to make a statement. The attending doctor, vide Ex.PB, declared that the condition of the deceased was critical and life threatening, and he was unfit to give any statement.

6. On 27.04.2002, SI Yogi Raj again visited the hospital and sought a medical examination of the deceased, who was still declared unfit vide Ex.PA. and certified by PW-7 Dr. Ajit Singh Randhawa, vide Ex.PA/2 as having sustained a brain injury, dangerous to life.

7. The investigation led to the arrest of the accused : accused/appellant Jagjiwan Joshi @ Sonu @ Rocky was produced by

his brother on 28.04.2002 and arrested; accused-appellant Rajbir Singh @ Dhola was arrested on 30.04.2002 after his discharge from the hospital, and he pointed out the place of occurrence.

8. On 01.05.2002, upon receiving information that the deceased had succumbed to his injuries, PW-12 SI Yogi Raj recorded a DDR (Ex.PF/4), adding Section 302 of the IPC, and sent special report to superior officers. He prepared the inquest report (Ex.PK), sent the dead body for post-mortem through Head Constable Devinder Singh and Constable Satwant Singh, and later took into possession the cloths of the deceased (shirt Ex.P2, trousers, Ex.P3 and underwear Ex.P4) vide memo Ex.PQ, sealing them with seal "YR".

9. The third accused Mahavir Singh (who expired subsequent to the passing of the impugned order and qua whom appeal-CRA-D-318-DB-2004 has abated), surrendered before the Court on 11.05.2002 and was arrested by PW-10, ASI Lakhbir Singh. Pursuant to a disclosure statement made by accused Mahavir Singh, a *sua* was recovered vide Ex.PH/2. The bed head ticket of the deceased (Ex.PG) was got from Ajit Hospital. It also transpired during investigation that accused Mahavir Singh received injuries allegedly caused by the public while intervening during the occurrence.

10. Upon completion of investigation, the challan was presented before the Illaqa Magistrate. Thereafter, the case was committed to the Court of Sessions and the learned Sessions Court framed charges as follows:

- Accused Mahavir Singh and accused Jagjiwan Joshi @

Sonu @ Rocky were charged under Section 302 of the IPC;
and

- Accused Rajbir Singh @ Dhola under Section 302 read with 34 of the IPC.

11. The charges were read over and explained to the accused to which they pleaded not guilty and claimed trial.

12. In order to substantiate the charges, the prosecution examined as many as 14 witnesses, namely Dr. Sawinder Singh PW-1 who attended upon the deceased on 27.04.2002 at Ajit Hospital; he declared the deceased unfit for statement vide Ex.PA on Police Application (PA/1), Dr. Vaneet Kumar PW-2, who attended the deceased on 26.04.2002 upon his admission with multiple injuries and opined vide Ex.PB that the patient was unfit for statement due to a grave and life-threatening condition. HC Devinder Singh PW-3, Constable Mukhtiar Singh PW-4, Constable Rana Partap Singh PW-13 were formal witnesses who tendered affidavits Ex.PC, Ex.PD and Ex.PS respectively. PW-5, Rishi Ram, Draftsman prepared the scaled site plan (Ex.PE) of the place of occurrence at the instance of the police.

13. PW-6 Jaspal Singh, complainant and injured eyewitness, reiterated his statement as recorded in the FIR, giving an ocular account of the assault on the deceased and himself.

14. Dr. Ajit Singh Randhawa PW-7, proved that deceased was admitted on 26.04.2002 at 12.50 P.M. in a deeply unconscious state, with two penetrating wounds on the left side of the head, fracture of the

left temporal bone subarachnoid, haemorrhage, and multiple brain injuries. He declared brain injuries dangerous to life vide Ex.PA/2. This witness further stated that the patient succumbed on 01.05.2002 at 05.17 P.M. and produced the bed head ticket Ex.PG.

15. PW-8 Saudagar Singh, eyewitness, corroborated the version given by PW-6 Jaspal Singh.

16. PW-9 Ashwani Singh @ Pappu deposed that about a year prior, there had been a dispute between the accused and the complainant party over purchase of bananas, which was compromised without the police being intimated.

17. PW-10 ASI Lakhbir Singh and PW-12 SI Yogi Raj, Investigating Officers, deposed regarding the steps taken during investigation, arrests, recoveries, and proved memos prepared by them.

18. Dr. Gurmanjit Rai PW-11 conducted the post-mortem on the dead body of the deceased and proved the report Ex.PN. As per the post-mortem report, the injuries, included two penetrative wounds near the left ear and forehead, along with multiple bruises. Cause of death was compression of the brain due to injuries No.1 and 2, which were sufficient in the ordinary course of nature to cause death.

19. PW-14 Dr. Bikramjit Singh proved the medico legal report (Ex.PT), recording two incised wounds on the left side of the head.

20. After examination of PW-14 Dr. Bikramjit Singh, the prosecution closed the evidence.

21. The accused were examined under Section 313 of the Cr.P.C. on the incriminating circumstances appearing against them.

They denied the allegations, pleaded false implication, and opted to lead defence evidence.

22. In defence, the accused examined six witnesses i.e. DW-1 Dr. Sukhwinder Singh, who proved MLR (Ex.DD), regarding injuries on accused Jagjiwan Joshi on 28.04.2002, which included a stitched wound on the skull, abrasions and infected wounds. Some injuries were kept under observation; the rest were opined simple, with blunt and sharp weapons involved.

23. DW-2 Darshan Singh produced the bed head ticket of Rajbir Singh from Guru Nanak Dev Hospital.

24. DW-3 Dr. Mohinder Singh, who conducted X-ray examination of accused Rajbir Singh, detecting a fracture of the shaft of the left tibia and other injuries without fracture.

25. DW-4 Dr. Amarjit Singh proved MLR (Ex.DW4/A) of accused Rajbir Singh dated 26.04.2002, recording multiple incised wounds, bruises, abrasions, and one grievous injury No.19, caused by a sharp edged weapon, alongside other simple injuries caused by blunt and pointed weapons.

26. Dr. Deepak Gupta appeared as DW-5 and deposed that accused Rajbir Singh was admitted to the emergency was on 26.04.2002 and discharged on 30.04.2002 after treatment. He produced bed head ticket (Ex.DW-5/A).

27. Lastly, DW-6 Jaswant Singh was examined, who deposed that accused Jagjiwan Joshi was not known by the nick names “Sonu” or “Rocky”.

28. During trial, all the accused submitted their written statements. In his written statement, accused Rajbir Singh @ Dhola alleged false implication, claimed that the injuries on the deceased were caused in exercise of the right of private defence, and that police failed to act on their statements. Accused Mahavir Singh claimed that he surrendered voluntarily after learning of the FIR and denied his involvement in the occurrence. Accused Jagjiwan Joshi @ Sonu @ Rocky denied that he was nick named "Sonu" or "Rocky", he denied any dispute with the deceased, and alleged false implication in connivance with the complainant party.

29. The learned Trial Court, on the basis of the evidence led, including the testimonies of the eyewitnesses PW-6 Jaspal Singh and PW-8 Saudagar Singh as well as the medical evidence on record, found that the case of the prosecution stood proved beyond reasonable doubt. The defence's plea of right of private defence was rejected. The learned Trial Court convicted the accused and sentenced them as follows:-

Name of the accused	Offence(s) under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
Rajbir Singh @ Dhola	302 of the IPC	Imprisonment for life	Rs.1,000/-	RI for 06 months
Jagjiwan Joshi @ Sonu @ Rocky	302 of the IPC	Imprisonment for life	Rs.1,000/-	RI for 06 months
Mahavir Singh	302 read with Section 34 of the IPC	Imprisonment for life	Rs.1,000/-	RI for 06 months

Submissions on Behalf of Appellant Rajbir Singh @ Dhola

30. Learned counsel for the appellant has challenged the impugned judgement on facts as well as on law, urging that the

conviction and sentence imposed are wholly unsustainable. The submissions made by the learned counsel were as follows.

31. It was contended that as per the prosecution, complainant Jaspal Singh alleged that on 26.04.2002 at about 11.00 A.M., he was accompanied by his maternal uncle's son, Narinder Singh @ Goldy (deceased), in connection with some business work when the present appellant and the co-accused armed with *sua* arrived at the spot. Appellant Rajbir Singh allegedly raised a *lalkara* to catch the deceased and teach him a lesson for fighting with them. Subsequently, co-convict/appellant Jagjiwan Joshi @ Sonu @ Rocky gave a *sua* blow to the deceased on the left side of his head followed by appellant Rajbir giving another blow with an intent to kill. Learned counsel argued that it is highly improbable that in a busy market, the appellants would have mustered the courage to inflict the injuries as have been projected by the prosecution and would have thereafter fled from the spot with their weapons.

32. It was argued that as per the case of the prosecution, there had been some quarrel between the parties on 25.04.2002 and the matter had been compromised. Once the matter had been compromised a day prior to the occurrence, there was no question of the accused party attacking the complainant party and inflicting injuries on the deceased as well as injured PW-6 Jaspal Singh. It was further argued that as per the case of the prosecution, the occurrence took place on 26.04.2002, however, the FIR was registered only at 01.00 P.M. under Section 307 and 34 of the IPC; deceased died on 01.05.2002 and

thereafter the offence was enhanced to Section 302 of the IPC. Learned counsel emphasised that in fact, it was the complainant party which had initiated the occurrence and it was in their right of self-defence that the complainant party received injuries; as per the medical evidence on record, as many as 24 injuries were sustained by appellant Rajbir Singh which were caused by blunt weapons and these injuries were consistent with their plea that it was the complainant party who in fact were the aggressors. It was argued that all these injuries on the appellant needed to be appreciated in the light of only two injuries being caused to the deceased and that too in exercise of the right of private defence.

33. Learned counsel submitted that the prosecution had miserably failed to explain the injuries on the accused. The prosecution witnesses, during their testimony fails to give any explanation with respect to the injuries sustained by the accused party. This omission cast serious doubt on their presence at the scene and on the truthfulness of their testimony. It was further argued that in the FIR, the complainant claimed that during the occurrence brick bats were hurled at the accused. However, when cross-examined, the complainant admitted that he had not seen any brick bats lying on the ground. This contradiction, as per the learned counsel clearly pointed to the falsity of the prosecution version. It was also argued that a fabricated version having been brought forth while registering the FIR was evident from the fact that there was a delay of two hours in recording the FIR and this delay naturally afforded ample opportunity for the complainant party to concoct a false narrative.

Submissions on Behalf of Appellant Jagjiwan Joshi @ Sonu @ Rocky

34. Learned counsel for the appellant has assailed the findings recorded by the learned Trial Court, contending that the impugned judgement suffers from serious infirmities and ignores material evidence on record. The submissions made by the learned counsel are summarised as follows:

35. It is submitted that the appellant was never known by the nicknames “Sonu” or “Rocky”, contrary to the case set up by the prosecution. In support, learned counsel has drawn the attention of this Court to Ex.DH—a copy of the chargesheet in FIR No.127 dated 30.08.2000, Police Station A Division, Amritsar, under Sections 323, 324, 325/34 IPC—and Ex.DH/1—a photocopy of the FIR therein—which clearly show that “Sonu” was in fact the nickname of Jagjit Singh, brother of the deceased Goldy, who was an accused in that earlier case. It has been, therefore, asserted that the appellant had been falsely implicated in the present case on the basis of some misguided suspicion.

36. Learned counsel further argued that DW-6 Jaswant Singh corroborated the factum of the appellant not being known by either of the nicknames “Sonu” or “Rocky”, which in turn corroborates the fact that the appellant was not even remotely connected with the occurrence in question. It has been argued that this crucial piece of evidence was erroneously ignored by the learned Trial Court while passing the impugned judgement.

37. The next argument by the learned counsel was with respect

to PW-6 Jaspal Singh, complainant. It was argued that PW-6 Jaspal Singh was a related and interested witness, having close association with the deceased. His testimony, was not free from bias and ought to have been approached with caution the Court. The learned Trial Court, however, relied upon it uncritically.

38. Learned counsel also drew the attention of the Court to certain improvements, which as per him were material and demolished the core of the prosecution case. He argued that these contradictions and embellishments were sufficient to discredit the version of the prosecution, yet were ignored by the learned Trial Court (??) While further drawing the attention of the Court to the medical evidence, it was argued that it was at variance with the ocular testimony; the post-mortem revealed incised wounds on the deceased, whereas the alleged weapon used was a “*sua*”, from which such incised wounds could not ordinarily result. This incongruity, as per the learned counsel shook the very foundation of the case of the prosecution.

39. It was also argued that the occurrence allegedly took place on 26.04.2002, while the deceased succumbed to injuries on 01.05.2002—i.e. after a lapse of five days. This time gap, as per the learned counsel, clearly indicated the absence of intention to cause death. At best, the offence made out against the appellant would be under Section 325 of the IPC or Section 304/304A of the IPC, not under Section 302 of the IPC.

40. It was lastly argued that the prosecution had miserably failed to explain the injuries sustained by the accused party, which is a

serious lacuna. The appellant himself suffered as many as seven injuries, proved through DW-1 Dr. Sukhwinder Singh. Additionally, DW-4 Dr. Amarjit Singh deposed that even co-appellant, Rajbir Singh sustained 24 injuries and on account of the injuries sustained, Rajbir Singh was hospitalised on the very same day. As per the learned counsel, this collective evidence clearly pointed that the defence version of the complainant party being the aggressors could not be ruled out and that the prosecution had tried to suppress the genesis of the incident.

Submissions on Behalf of the State

41. Learned counsel for the respondent-State, on the other hand, submitted that conviction of the appellants has been supported by sufficient incriminating evidence led by the prosecution and the learned Trial Court has, therefore, rightly convicted the appellants. The ocular evidence in the form of testimony of eyewitnesses PW-6 Jaspal Singh and PW-8 Saudagar Singh gave positive inference and corroborated with the medical evidence on record of Dr. Gurmanjit Rai (PW-11).

42. Learned State counsel submitted that the entire case of the prosecution rests on the eyewitness account of PW-6 Jaspal Singh and PW-8 Saudagar Singh, who had entirely supported the case of the prosecution. While stepping into the witness box, the eyewitnesses had categorically deposed that the crime in question was committed near grain market—a public place, the attack by the appellants invited the attention of general public present at that time; the public gathered at

the time of commission of crime, in order to save the deceased, threw brick bats upon the appellants. The appellants have made an unsubstantiated suggestion that the appellants were also inflicted injuries, however, no evidence much less, suggestion had been adduced by them that the injuries suffered on their person were at the hands of the complainant party.

Findings of the Court

43. Having heard the learned counsel for the parties at length, examined the impugned judgement, and scrutinised the evidence and other material on record, including the depositions of material witnesses, we now proceed to evaluate whether any infirmity, perversity, or misapplication of law warrants interference with the conclusions drawn by the learned Trial Court.

44. The first limb of argument by appellant Rajbir Singh @ Dhola is, that the injuries inflicted upon the deceased were in exercise of the right of private defence. This plea, in our considered view, is wholly unsubstantiated. A mere assertion, unsupported by consistent cross-examination of prosecution witnesses or cogent defence evidence, is insufficient to establish such a plea.

45. It is trite that the right of private defence must be pleaded and proved with specificity, including the circumstances giving rise to such apprehension, the imminence of the threat, and the proportionality of the response. The appellants have neither demonstrated when the alleged right arose nor how it was exercised within lawful bounds. The

cross-examination of prosecution witnesses, particularly upon both the eyewitnesses, PW-6 Jaspal Singh and PW-8 Saudagar Singh, is conspicuously silent on any suggestion that the accused were attacked first. It needs to be reiterated that the burden to establish the circumstances justifying the right lies on the accused, failing which the plea must be rejected.

46. Further, the learned counsel for the appellants strenuously argue that non-explanation of injuries on the accused persons is fatal to the case of the prosecution. The record indeed discloses that certain injuries were present on accused Rajbir Singh and Jagjiwan Joshi, as proved through their defence witnesses, DW-1 Dr. Sukhwinder Singh and DW-4 Dr. Amarjit Singh. However, the law is well settled that the failure of the prosecution to explain injuries on the accused is not invariably fatal, particularly where the evidence of the prosecution comes across as cogent, credible, and proves the guilt beyond reasonable doubt.

47. It may be emphasised that the obligation to explain such injuries arises only when the injuries are serious, unexplained, and cast doubt on the version of the prosecution. Here, the evidence of PW-6 Jaspal Singh and PW-8 Saudagar Singh provides a plausible explanation—that brick bats were hurled at the accused by onlookers during the occurrence—while the defence has not impeached this version in any meaningful way, much less by putting any suggestion to both these prosecution witnesses during their cross-examination to create any kind of a dent in the plausible explanation so given by both

these witnesses.

48. Moreover, minor injuries (like the ones sustained by the accused appellants which also includes one grievous injury on appellant Rajbir Singh) or those explained by credible circumstances, do not undermine an otherwise reliable case of the prosecution. The reliance placed by the learned Trial Court on these credible circumstances including minor injuries was correct and, therefore, requires no interference.

49. The case of the prosecution hinges substantially on the direct testimony of PW-6 Jaspal Singh and PW-8 Saudagar Singh. Learned counsel for the appellants vehemently argued that since PW-6 Jaspal Singh was related to the deceased, he was an interested witness. However, mere relationship does not *ipso facto* render a witness unreliable. A relative is often the most natural witness to an occurrence involving a family member. The key test is whether the evidence is consistent, credible and withstands cross-examination—which in the present case, it does.

50. The so-called improvements and omissions in their statements of both these eyewitnesses are peripheral and do not strike at the root of the version of the prosecution. The medical evidence is broadly consistent with the ocular testimony, and the minor semantic discrepancy regarding the classification of the weapon (*sua* being described as causing incised wounds) is neither implausible nor fatal.

51. The prosecution has successfully established that all three appellants acted in concert. The prior dispute, the armed presence of all

accused, the *lalkara* by appellant Rajbir Singh, the coordinated attack, and the infliction of injuries on vital parts of the body, cumulatively point to a pre-concert and shared intention to cause death. The learned Trial Court has rightly convicted all the accused including appellants Rajbir Singh and Jagjiwan Joshi under Sections 302 of the IPC and sentenced accordingly.

52. In view of the foregoing discussions, both the appeals are hereby dismissed.

**(MANJARI NEHRU KAUL)
JUDGE**

**(H.S. GREWAL)
JUDGE**

11.08.2025

Vinay

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