



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

**1. CRA-D-490-DB-2004 (O&M)**

Gurmail Singh @ Gaili & others

... Appellants

Versus

State of Punjab

... Respondent

**2. CRA-S-916-SB-2004 (O&M)**

Karamjit Singh @ Malhi

... Appellant

Versus

State of Punjab

... Respondent

**3. CRR-1175-2004 (O&M)**

Jaswant Singh

... Petitioner

Versus

State of Punjab

... Respondent

Reserved on : 11<sup>th</sup> August, 2025  
Pronounced on : 25<sup>th</sup> August, 2025

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

Argued by: Mr. SPS Sidhu, Advocate for the appellants.

Mr. Mohit Kapoor, Sr. Dy. Advocate General, Punjab  
assisted by Mr. R.K. Dhiman, Advocate for the complainant.

**MANJARI NEHRU KAUL, J.**

**CRA-D-490-DB-2004 (O&M)**

1. The present appeal has been preferred against the judgment of conviction dated 01.03.2004 and the consequential order of sentence dated 02.03.2004 passed by the Court of learned Sessions Judge,

Faridkot, whereby the appellants have been convicted and sentenced, in connection with the alleged murder of one Balbir Singh, as under:

| Under Section | Sentence                                                          | In default of payment of fine                                |
|---------------|-------------------------------------------------------------------|--------------------------------------------------------------|
| 302/34 IPC    | Rigorous imprisonment for life and to pay a fine of ₹10000/- each | To further undergo rigorous imprisonment for six months each |
| 120-B IPC     | Rigorous imprisonment for life and to pay a fine of ₹10000/- each | To further undergo rigorous imprisonment for six months each |

Both the substantive sentences were ordered to run concurrently.

2. The genesis of the prosecution case lies in the statement of PW-2 Jaswant Singh, the complainant, on the basis of which FIR No.28 dated 11.05.1999 Ex.PD was registered at Police Station Nihal Singh Wala.

3. Briefly stated, the complainant, Jaswant Singh had two sons, Jagdish Singh and Balbir Singh (since deceased), both engaged in running chemist shops. Jagdish Singh operated his shop at village Baude, while deceased Balbir Singh had been running his chemist shop at Badhni Kalan for the last about 10 years. It was their routine to return home in the evenings after closing their respective shops.

4. On the night of 10.05.1999, Jagdish Singh returned home as usual; however, Balbir Singh did not. After waiting for some time, the complainant, accompanied by Jagdish Singh and Sarpanch Balwinder Singh set out in search of Balbir Singh. Around 1:00 am, while passing near the tube-well bore of one Gela Singh in the area of village Rao Ke Kalan, they discovered the dead body of Balbir Singh lying on the left

side of the road. The body bore visible firearm injuries and was smeared with blood.

5. Near the body lay a Vespa scooter bearing registration No.PB-36A-0890, along with 2 empty 12 bore cartridges. The complainant suspected that unknown assailants had murdered his son by causing firearm injuries. Leaving Jagdish Singh at the spot, he and the Sarpanch proceeded to Police Station Nihal Singh Wala, where Inspector Sandeep Kumar recorded the FIR.

6. On 11.05.1999, PW-19 Inspector Sandeep Kumar visited the scene of occurrence in the presence of the complainant and the Sarpanch. He prepared the inquest report Ex.PB on the identification of Jaswant Singh and Balwinder Singh. Two empty 12 bore cartridges were recovered, converted into a parcel, sealed with the seal impression "SK", and taken into possession vide memo Ex.PZ. Blood-stained earth and plain earth were also separately sealed and taken into possession vide memo Ex.PY. The Vespa scooter and its registration certificate, Ex.P11, were similarly taken into possession vide memo Ex.PAA.

7. The dead-body was sent to the Civil Hospital Moga for postmortem examination, along with request Ex.PC through HC Baljeet Singh. PW-6. PW-1 Dr. Sukhmander Singh and Dr. VJS Dhillon conducted the autopsy on 11.05.1999. Certain articles, including the clothes of the deceased Ex.P12 to Ex.P17, were produced before the Investigating Officer, sealed, and taken into possession vide memo Ex.PW-19/A. Parcels containing wads and pellets were marked as Ex.P18 and Ex.P19. The rough site plan of the place of occurrence Ex.PW19/B was prepared, and all parcels along with the scooter were deposited with the MHC.

8. Subsequently, investigation was entrusted to PW-20 Inspector Balwinder Singh. On 07.06.1999, he recorded the statement of PW-10 Mohinder Singh, a Panchayat member of village Rao Ke Kalan, under Section 161 Cr.P.C. PW-10 Mohinder Singh disclosed that about 2-3 days earlier, all 3 accused – Gurmail Singh alias Gaili, Sadhu Singh, and Karamjit Singh alias Malhi – had approached him, confessed to having committed the murder of Balbir Singh, and sought to be produced before the police.

9. On 09.06.1999, PW-10 Mohinder Singh produced the three accused before PW-20 Inspector Balwinder Singh, who arrested them after apprising them of the grounds of arrest vide memo Ex.PW.

10. During investigation, accused Sadhu Singh produced a licensed 12 bore gun Ex.P1, which was seized vide memo Ex.PJ; accused Karamjit Singh produced a torch Ex.P2, seized vide memo Ex.PK; accused Gurmail Singh alias Gaili, on interrogation, made a disclosure statement Ex.PH regarding concealment of a .38 bore revolver and 3 cartridges in a glazed envelope buried near the wall of his house. Pursuant to the statement, he led the police to the spot and recovered the said revolver and cartridges, which were seized vide memo Ex.PM.

11. Accused Karamjit Singh also made a disclosure statement Ex.PO/1 about concealing a 12 bore pistol and 5 cartridges under a heap of manure. Pursuant thereto, recovery was effected, and the pistol was seized vide memo Ex.PO.

12. Separate cases under the Arms Act were registered against accused Gurmail Singh and Karamjit Singh for these recoveries. The

scooter of accused Sadhu Singh was also taken into possession vide memo Ex.PX.

13. Upon completion of investigation, the police presented challan before the Illaqa Magistrate, who thereafter committed the case to the Court of Sessions.

14. Since a prima facie case under Sections 302/34 and 120-B IPC was made out against all the accused, they were accordingly charge-sheeted to which they pleaded not guilty and claimed trial.

15. To substantiate its case, the prosecution examined 20 witnesses, including PW-1 Dr. Sukhmander Singh, PW-2 Jaswant Singh (complainant), PW-10 Mohinder Singh (witness of extra-judicial confession), PW-19 Inspector Sandeep Kumar and PW-20 Inspector Balwinder Singh. The prosecution also tendered FSL reports Ex.PCC to Ex.PEE and closed its evidence.

16. In their statements recorded under Section 313 Cr.P.C., the accused denied the incriminating circumstances. Accused Gurmail Singh asserted false implication, absence of motive, and denial of having made any extra-judicial confession or disclosure statement. He claimed that he was lifted from his house on 19.05.1999 in the presence of respectables, detained for several days, and his arrest shown later. Similar pleas were taken by accused Sadhu Singh and accused Karamjit Singh, with the accused Karamjit Singh additionally asserting that the Panchayat members had moved an application before the then Additional Sessions Judge, Faridkot regarding his illegal detention.

17. The defence examined DW-1 Inderpal Singh and DW 2 Paramjeet Singh.

18. Upon consideration of the evidence, the learned trial Court convicted all three accused – Gurmail Singh alias Gaili, Sadhu Singh and Karamjit Singh alias Malhi – under Section 302/34 and 120-B IPC and sentenced them as already detailed in the earlier part of this judgment.

#### SUBMISSIONS ON BEHALF OF THE APPELLANTS

19. Learned counsel for the appellants, while assailing the judgment of conviction rendered by the learned trial Court, has advanced the following submissions:

**(i) Case based on Circumstantial Evidence**

At the very outset, it is urged that the entire case of the prosecution rests exclusively on circumstantial evidence. The settled legal principle is that where conviction is sought on the basis of circumstances, the chain must be complete in every respect and must unerringly point to the guilt of the accused. Even if a single link is missing or found doubtful, the edifice of the prosecution falls. In the present case, as per the learned counsel, the circumstances pressed into service are discrepant, incomplete, and incapable of forming an unbroken chain so as to sustain conviction.

**(ii) Last seen account (PW-3 Malkiat Singh)**

The first circumstance relied upon by the prosecution is the alleged last-seen testimony of PW-3 Malkiat Singh. It is contended that his version is wholly unreliable. He claims to have seen the accused at about 9:30 PM near the scooter of the deceased on the

fateful night, but instead of informing anyone, he immediately left for Anandpur Sahib and remained away for nearly 5 days. He surfaced only on 15.05.1999 and allegedly disclosed this fact for the first time. Such conduct, as per the learned counsel, is unnatural, inconsistent with human behavior, and indicative of a false afterthought. His belated disclosure renders his testimony unsafe and unworthy of reliance.

**(iii) Evidence of conspiracy (PW-4 Jaswant Singh)**

The second circumstance pressed is the alleged conspiracy, spoken to by PW-4 Jaswant Singh. This witness claims to have overheard a conspiracy in the village Gurudwara. However, even if his testimony is accepted at face value, the alleged conversation pertains to a time almost two years prior to the incident. PW-4 Jaswant Singh admits that he never disclosed this fact to his father who was the Head Granthi, or to any villager. Such prolonged silence, it is argued, makes his testimony wholly unreliable. The conspiracy is vague in time, place, and content, and cannot be regarded as a trustworthy circumstance.

**(iv) Extrajudicial confession (PW-10 Mohinder Singh)**

The third circumstance relied upon is the alleged extra-judicial confession before PW-10 Mohinder Singh. Learned counsel submits that this is wholly improbable. It defies logic that all three accused,

nearly a month after the occurrence, would voluntarily approach PW-10 Mohinder Singh, confess to their guilt, excuse themselves on the pretext of urinating, and then return to repeat the confession. Such behavior is contrary to ordinary human conduct. Furthermore, PW-10 Mohinder Singh is admittedly closely related to the complainant's side, thereby lacking the impartiality necessary for reliance. It is emphasized that an extra-judicial confession must be voluntary and truthful, but in the present case, it is contrived and unworthy of credence.

**(v) Contradictions in medical evidence**

It is next submitted that the medical evidence demolishes the case of the prosecution. PW-1 Dr. Sukhmander Singh, who conducted the postmortem, deposed that injury No.3 was an incised wound on the right side of the skull, measuring 25 x 20 centimeters, with fragments of skull bone missing and brain matter protruding. According to him, this was the most fatal injury. Yet, as per the version of the prosecution, the accused were armed only with firearms; there is no allegation of any sharp-edged weapon. The most fatal injury, therefore, stands unexplained. Further, in cross-examination, the doctor opined that the probable time of death was around 3:00 PM on 10.05.1999, whereas the prosecution case places the occurrence at midnight between 10<sup>th</sup> and

11<sup>th</sup> of May 1999. The doctor also stated that the deceased had taken his last meal about one hour before death. This scientific evidence, it is urged, directly contradicts the ocular version and fatally undermines the prosecution timeline.

**(vi) Fabricated recoveries**

It is argued that the alleged recovery of two empty cartridges from the spot is fabricated. Column No.23 of the inquest report Ex.PX, which should record all articles found near the body, is conspicuously blank. Had empties or blood-stained earth been recovered, they would have been noted there. Their later introduction appears contrived. Moreover, the alleged matching of these empties with the licensed gun of accused Sadhu Singh is unreliable, since the weapon was not sealed on the spot. The ballistic opinion, therefore, cannot be safely relied upon.

**(vii) Weak motive**

The reliance placed by the prosecution on the alleged motive is entirely misplaced. The alleged motive – that there was some land exchange between the complainant's family and the accused, is vague and unsupported by any documentary proof. The motive here is clearly speculative and weak.

**(viii) Proceedings under the Arms Act**

It is pointed out that the recoveries attributed to accuse Gurmail Singh and Karamjit Singh led to separate

prosecutions under the Arms Act, but those proceedings did not culminate in any conviction connected with the present case. Consequently, those recoveries cannot be pressed into service to sustain the conviction under Section 302/34 and 120-B IPC.

20. It has been finally argued that on an overall appraisal, the prosecution case is riddled with infirmities; the last seen account is doubtful, the conspiracy evidence is vague, the extra-judicial confession is unnatural, the medical evidence contradicts the ocular version, the recoveries are fabricated and the motive is clearly speculative. Learned counsel has further asserted that suspicion, however strong, cannot substitute proof. Hence, the conviction recorded by the trial Court is unsustainable and deserves to be set aside.

#### SUBMISSIONS ON BEHALF OF THE STATE

21. Per contra learned State counsel assisted by learned counsel for the complainant has supported the conviction and advanced the following submissions:

- (i) It is submitted that the judgment of the trial Court is well-reasoned, based on appreciation of evidence, and calls for no interference in appeal. The prosecution has relied not on a solitary circumstance but on a series of inter-linked circumstances which, taken cumulatively, form a complete chain pointing only towards the guilt of the accused.
- (ii) The testimony of PW-3 Malkiat Singh (witness of last seen), it is argued, is both natural and credible. His absence for a few days owing to his visit to Anandpur Sahib does not render his statement unreliable. His

version that he saw the accused perplexed near the scooter shortly before the recovery of the dead body is a vital link in the chain of circumstances and cannot be discarded merely on account of the timing of disclosure.

- (iii) The evidence of PW-4 Jaswant Singh regarding the conspiracy, though disclosed belatedly, cannot be brushed aside. In rural settings, witnesses often refrain from immediately disclosing over-heard conversations for fear of hostility. His testimony, therefore, lends corroboration to the element of premeditation and should not be lightly discarded.
- (iv) The extra-judicial confession made before PW-10 Mohinder Singh comes across as wholly reliable. PW-10 Mohinder Singh is a member of Panchayat, a person of repute and standing in the village, and there exists no reason for him to falsely implicate the accused. The accused voluntarily confessed before him and requested to be produced before the police, which was promptly done. The fact that he is distantly related to the complainant is immaterial, so long as his testimony inspires confidence. It is well settled that an extra-judicial confession, if voluntary and true, can form the sole basis of conviction.
- (v) The recoveries, as per the learned State counsel, further strengthen the case of the prosecution. Two empty cartridges recovered from the spot were duly

sealed and sent to the FSL, which opined that they were fired from the licensed gun of accused Sadhu Singh. In addition, the Vespa scooter, torch, revolver, and pistol recovered pursuant to disclosure statements corroborate the prosecution version. The omission in the inquest report cannot nullify recoveries which are duly proved by a seizure memos.

- (vi) As regards medical evidence, it is contended that the description of injury No.3 as an incised wound could well represent a firearm injury at close range, which often shatters bones and produces an incise like effect. The observation of the doctor regarding the probable time of death is only an approximation, and medical opinion cannot outweigh the consistent and reliable ocular testimony of the prosecution witnesses.
- (vii) On the aspect of motive, it has been submitted that the land exchange between the family of the complainant and the accused side did provide a tangible cause for resentment. Accused Gurmail Singh, in particular, harbored a grudge and, in furtherance of this resentment, conspired with his co-accused to eliminate the deceased.

22. Learned State counsel has, therefore, vehemently argued that on the strength of the last-seen account, the evidence of conspiracy, the extra-judicial confession, the recoveries duly corroborated by forensic evidence, the medical opinion when read harmoniously with ocular testimony, and the motive borne out of land disputes, the

prosecution has established its case beyond reasonable doubt. The conviction recorded by the learned trial Court is, therefore, fully justified and calls for affirmation.

#### FINDINGS OF THE COURT

23. We have heard learned counsel for the appellants and have thoroughly examined the evidence on record. Upon scrutiny of the evidence on record, we find ourselves unable to sustain the conviction.

24. It is well settled that when a case rests solely on circumstantial evidence, the circumstances relied upon must be fully established, and the chain of evidence must be so complete as to exclude every hypothesis except the guilt of the accused.

25. The prosecution must establish:

- (i) that the circumstances from which the conclusion of guilt is drawn are fully proved;
- (ii) that all the facts are consistent only with the hypothesis of guilt;
- (iii) that the circumstances are of a conclusive nature and tendency;
- (iv) that they exclude every possible hypothesis except the guilt of the accused; and
- (v) that the chain of evidence is complete.

26. If any link is missing, the accused is entitled to acquittal. Suspicion, however grave, cannot take the place of proof.

27. The testimony of PW-3 Malkiat Singh, who claims to have last seen the accused near a scooter on the fateful night, is fraught with doubt. His failure to disclose this fact for five days, despite having ample opportunity, renders his testimony unnatural and inconsistent with

ordinary human conduct. Such belated disclosure, without plausible explanation, carries the clear imprint of an afterthought. Courts have repeatedly cautioned that last-seen evidence must be cogent and reliable, or else it cannot sustain conviction.

28. Further, the claim of PW-4 Jaswant Singh of overhearing a conspiracy in the village Gurdwara nearly two years before the incident, is inherently unreliable. His prolonged silence, even from his father – the Head Granthi of the village Gurdwara – renders his evidence unworthy of credence. It needs to be emphasized that vague and stale allegations cannot constitute proof of conspiracy.

29. Coming to the extra-judicial confession made before PW-10 Mohinder Singh, the same is equally improbable. It is difficult to accept that all three accused would, nearly a month after the incident, voluntarily confess, leave under a pretext, and then return to repeat the confession. This conduct defies logic. Moreover, PW-10 Mohinder Singh is admittedly related to the complainant, which further erodes impartiality. It is settled that extra-judicial confessions are a weak piece of evidence and, unless voluntary, truthful, and inspiring confidence, cannot be relied upon. The present alleged confession does not meet that threshold.

30. Furthermore, the post-mortem conducted by PW-1 Dr. Sukhmander Singh revealed a large incised wound on the skull with bone fragments missing and brain matter protruding – injuries inconsistent with firearm use, which was the only case of the prosecution. Additionally, the medical opinion fixed the probable time of death at about 3:00 PM on 10.05.1999, with the last meal consumed an hour prior. This directly contradicts the prosecution's version that the

incident occurred around midnight of 10<sup>th</sup> and 11<sup>th</sup> of May 1999. Where medical evidence runs counter to the ocular version, the prosecution case cannot be accepted without hesitation.

31. The alleged recovery of empty cartridges is tainted by serious infirmity. Column 23 of the inquest report Ex.PX, which should have noted such recoveries, is admittedly blank. Their subsequent introduction strongly suggests fabrication. Moreover, the ballistic report Ex.PEE linking the empties to the licensed gun of accused Sadhu Singh is unsafe, as the weapon was not sealed at the spot. The possibility of tampering, therefore, cannot be ruled out. It is trite that recoveries must be unimpeachable to be relied upon.

32. The prosecution's suggestion of motive, being a vague dispute over exchange of land, is unsubstantiated by any evidence, much less documentary. Motive in the present case comes across as merely speculative.

33. On a holistic appraisal, the case of the prosecution is riddled with infirmities : the last-seen evidence comes across as untrustworthy, the evidence of conspiracy is stale and vague, the extra-judicial confession is improbable, the medical evidence contradicts the timeline given by the prosecution, the recoveries clearly appear to be fabricated, and the motive is also weak. The chain of circumstances is thus broken at several links and falls far short of the legal standard required.

34. In such circumstances, the appellants are entitled to the benefit of doubt. It is a cardinal principle that where two views are possible, the one favouring the accused must prevail.

35. For the foregoing reasons, we hold that the prosecution has failed to prove its case beyond reasonable doubt. The conviction

recorded by the trial Court is unsustainable in law. The appeal is accordingly allowed. The judgement of conviction dated 01.03.2004 and the consequential order of sentence dated 02.03.2004 passed by the learned trial Court are hereby set aside.

CRA-S-916-SB-2004 (O&M)

36. The instant appeal has been filed by accused Karamjit Singh alias Malhi against the judgment of conviction dated 01.03.2004 and the consequential order of sentence dated 02.03.2004 passed by the Court of learned Sessions Judge, Faridkot, whereby he has been convicted under Section 25 of the Arms Act, 1959 and sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of ₹ 5000/-, and in default of payment of fine to further undergo rigorous imprisonment for three months.

37. Learned counsel for the appellant has argued that the prosecution failed to establish that the alleged recovery was effected from the conscious possession of the appellant. It is contended that the pistol was not sealed when produced before PW2 (Armourer Kewal Krishan), no independent witness was joined though villages fell on the route, and the version of concealment of a weapon under a heap of manure alongside the house is inherently improbable. Attention is also invited to alleged discrepancies in the statements of PWs, which according to counsel were brushed aside by the learned trial Court.

38. Per contra, learned State counsel submits that the recovery of the country-made pistol (Ex.P2) along with five live cartridges (Ex.P3 to Ex.P7) stands duly proved through disclosure statement Ex.PA/1 suffered by the appellant, attested by PW4 ASI Hardeep Singh. The

recovery memo (Ex.PC), sketch (Ex.PB), and site plan (Ex.PD) corroborate the seizure. PW3 Inspector Balwinder Singh and PW4 ASI Hardeep Singh have consistently deposed regarding the recovery, and their testimony cannot be discarded merely because they are official witnesses. PW1 Ramji Dass proved sanction Ex.P1 and PW2 Armourer Kewal Krishan proved test report Ex.PA confirming the pistol to be in working condition. It is submitted that the trial Court has rendered a well-reasoned judgment and no infirmity is made out.

39. Heard learned counsel for the parties and perused the relevant material on record.

40. On consideration of the rival submissions, we find that the disclosure statement Ex.PA/1 made by the appellant led to the recovery of pistol Ex.P2 and cartridges Ex.P3 to Ex.P7, duly taken into possession vide memo Ex.PC and supported by sketch Ex.PB and site plan Ex.PD. The sanction Ex.P1 stands proved by PW1. The test report Ex.PA establishes that the weapon was serviceable. The testimony of PW3 Inspector Balwinder Singh and PW4 ASI Hardeep Singh is consistent and reliable. The contention regarding absence of independent witnesses does not detract from the prosecution case, as official witnesses inspire confidence and no motive for false implication has been shown. The minor irregularity regarding non-sealing does not go to the root, the recovery being directly linked to the disclosure by the appellant himself.

41. This Court thus finds no merit in the appeal. The conviction of the appellant under Section 25 of the Arms Act is upheld. However, considering the period already undergone, the sentence is reduced to that already undergone by the appellant.

42. The appeal is disposed of accordingly.

CRR-1175-2004 (O&M)

Since in the connected main appeals the judgment of conviction dated 01.03.2004 and the order of sentence dated 02.03.2004 have been set aside and the appellants – Gurmail Singh alias Gaili, Sadhu Singh and Karamjit Singh alias Malhi – stand acquitted of the charges framed against them under Sections 302/34 and 120-B IPC, the instant revision petition filed by complainant Jaswant Singh seeking enhancement of sentence and fine does not survive and is accordingly dismissed.

(MANJARI NEHRU KAUL)  
JUDGE

(H. S. GREWAL)  
JUDGE

August 25, 2025

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