



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

1. Crl. Appeal-D No. 1105-DB of 2017(O&M)
Date of Decision: May 3 , 2025.

Gurpreet Singh APPELLANT(s)
Versus
State of Punjab RESPONDENT (s)

2. Crl. Appeal-AD No. 88 of 2019(O&M)
Lakhwinder Singh APPELLANT(s)
Versus
State of Punjab and others RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MRS.JUSTICE ALOK JAIN**

Argued by: Mr. Sant Pal Singh Sidhu, Advocate
for the appellant in CRA-D No.1105-DB of 2017.

Mr. K.B.Raheja, Advocate
for the appellant in CRA-AD No.88 of 2019 and
for the complainant in CRA-D No.1105-DB of 2017.

Mr. R.S.Pandher, Addl.AG, Punjab.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

1. Appellant – Gurpreet Singh has filed Criminal Appeal No.1105-DB of 2017 challenging judgment of conviction dated 31.10.2017 and order of sentence dated 07.11.2017 passed by learned Additional Sessions Judge, Ferozpur whereby he has been convicted for offence punishable under Section

302 IPC and sentenced to undergo rigorous imprisonment for life, besides, payment of fine of Rs.50,000/- and in default thereof, rigorous imprisonment for six months.

2. CRA-AD No.88 of 2019 has been filed by complainant – Lakhwinder Singh challenging judgment dated 31.10.2017 to the extent that one of the accused, Dalip Singh has been acquitted. He also prays for enhancement of sentence imposed upon Gurpreet Singh from rigorous imprisonment for life to that of death, besides, seeking compensation.

3. Brief facts of the case, as per prosecution version are that, telephonic message was received on 02.08.2011 from MHC, Police Station Sadar Ferozepur regarding admission of Amrik Singh (deceased) son of Harbans Singh with fire arm injuries at Mission Hospital at Ferozepur. On receipt of this information, Inspector Jaswant Singh SHO (PW12) alongwith ASI Ashwani Kumar and other police officials reached Mission Hospital, Ferozepur from Police Station Sadar. Opinion of doctor regarding fitness of injured to make statement was sought, upon which injured was declared unfit to record a statement. Statement of Lakhwinder Singh (PW1), brother of the injured was recorded on the basis of which FIR (Ex.PW12/5) was registered. Lakhwinder Singh in his statement, Ex.P1, stated that he was an agriculturist, he and his brother were also carrying on the business of commission agency alongwith his younger brother Amrik Singh. On 02.08.2011 at about 12.30 noon, he alongwith his brother Amrik Singh (deceased) and son Jujhar Singh (PW2) went to Grain market, Ferozepur Cantt. in their car to enquire about the rate of moong *daal* (pulse). When they alighted from their

car, a jeep driven by Gurpreet Singh son of Baj Singh was about to strike against him but he jumped aside. Gurpreet Singh alongwith Dalip Singh son of Baj Singh armed with a revolver alongwith two unknown persons having .12 bore gun alighted from the jeep. Gurpreet Singh drew out a revolver from his pocket and exhorted that a lesson be taught to them for not settling accounts. Dalip Singh then fired a shot in the air from his revolver, Gurpreet Singh fired two shots from his revolver towards his brother Amrik Singh which hit his stomach as a result of which Amrik Singh fell down. Alarm was raised upon which all accused fled from the spot alongwith respective weapons. Lakhwinder Singh further stated that he and his son Jujhar Singh took his brother to Mission Hospital, Ferozepur and that motive behind the incident is that they had borrowed a sum of Rs. 1,25,000/- from Gurpreet Singh. This amount had been returned but Gurpreet Singh was still demanding this amount and it is due to this reason that accused fired shots upon his brother with an intention to kill him. Initially, FIR under Section 307 IPC was registered but upon death of Amrik Singh on 02.08.2011 at about 7.30 p.m., offence under Section 302 IPC was added. Investigation was carried out by SHO Jaswant Singh (PW12). Spot was visited and draft site plan (Ex.PW12/6) prepared. Statements of witnesses were recorded. Medico Legal report is Ex. PW14/P is on record. Post Mortem of the body was conducted and post mortem report, Ex.PW9/2 is on record. Appellant – Gurpreet Singh was arrested on 05.08.2011 and on the basis of disclosure statement made by him a licenced revolver, two empty cartridges, five live cartridges were recovered and taken in police possession vide memo Ex.PW12/16. Accused Dalip Singh, Bohar, and

Pamma were found innocent during investigation.

4. On completion of investigation, challan/final report was presented against Gurpreet Singh. Copies of documents were supplied to the accused. Case was committed for trial by learned Area Magistrate to the court of learned Sessions Judge, Ferozepur. An application under Section 319 Cr.P.C. was filed for summoning Dalip Singh, Pamma and Bohar Singh to face trial. Application qua Dalip Singh was allowed on 04.05.2013. Application qua Hira Singh and Pamma Singh was dismissed on 04.05.2013 and 08.01.2014 respectively. Charge under Section 302 read with Section 34 IPC and Sections 25/27 of Arms Act was framed against Gurpreet Singh and Dalip Singh on 15.01.2014, to which they pleaded not guilty and claimed trial.

5. Prosecution examined as many as fourteen (14) witnesses to buttress its case. FSL report, Ex.PA and PB were also tendered in evidence. Statement of accused under Section 313 Cr.P.C. was recorded with entire incriminating evidence being put to them. They claimed innocence and false implication. Dalip Singh claimed that he is an employee of PSPCL and was declared innocent by police and that a false case was registered against him. Gurpreet Singh while pleading innocence claimed that the present was a blind murder case. Number of persons were arrested and ultimately false case was registered against him while others were let off. Three witnesses were examined in defence.

6. Learned trial Court on considering the evidence on record, facts and circumstances, concluded that prosecution had proved its case beyond reasonable doubt against Gurpreet Singh but had failed to do so in respect to accused Dalip

Singh. Accordingly, Gurpreet Singh was convicted for commission of murder of Amrik Singh and sentenced as detailed in the foregoing paras. Dalip Singh was, however, acquitted of the charge framed against him.

7. Aggrieved therefrom, CRA No.1105-DB of 2017 has been filed by Gurpreet Singh challenging his conviction and sentence, while CRA-AD No.88 of 2019 was filed by Lakhwinder Singh challenging acquittal of Dalip Singh, besides, seeking enhancement of sentence imposed upon Gurpreet Singh.

8. Learned counsel for appellant - Gurpreet Singh vehemently argued that learned trial Court has ignored the fact that evidence on record does not in any manner lead to the conclusion of guilt of appellant - Gurpreet Singh. It was submitted that presence of complainant-Lakhwinder Singh and Jujhar Singh, alleged eye witnesses, is not proved. This is evident from the fact that though both PW1 and PW2 i.e. Lakhwinder Singh and Jujhar Singh claimed to have witnessed the occurrence and have also stated that they lifted Amrik Singh (deceased) in an injured condition and took him to Mission Hospital, Ferozepur in their car but no blood stained clothes of any of these witnesses were presented before the police authorities. In fact, both the said witnesses stated that their clothes did not get blood stained while lifting the injured putting him in the car and no blood had even fallen in the car. While referring to the statement of PW12, Jaswant Singh, it was submitted that the car in which injured was taken to Mission Hospital was not even examined. It was further submitted that as per MLR of deceased, Ex.PW14/B, column of name of relatives or friends who brought the injured to hospital was left blank and in the column of arrival, name of Inspector Jaswant Singh is mentioned.

This fact by itself, it was submitted, indicates that deceased was brought to hospital by the police officials and it is a clear cut case of blind murder. Moreover, name of complainant Lakhwinder Singh in the Bed Head ticket (EX.PW12/F) has been written at later point of time.

9. Learned counsel for appellant further argued vehemently that as per the first version, it is Gurpreet Singh who was attributed a *Lalkara* and two shots are attributed to Dalip Singh. The entire version was changed subsequently because it was realised by complainant side that Dalip Singh was a Government employee and was on duty at the time of alleged occurrence. Therefore, it is with the connivance of police that entire version was changed. Reference was made to alleged photocopy of FIR, Ex.D3. Learned counsel for appellant further submitted that as per FSL report, Ex. PA, no definite opinion could be given in respect to bullets recovered from the body of Amrik Singh, therefore, said bullets cannot be connected to the weapon allegedly recovered from Gurpreet Singh. Moreover, there is no evidence on record to indicate that there was any motive with the appellant to have murdered Amrik Singh. There is no evidence to indicate that there was any money transaction between Gurpreet Singh and deceased Amrik Singh. Furthermore, once it is the case of the complainant himself that he alongwith Amrik Singh and Jujhar Singh had gone to the grain market without any prior schedule and only as per chance, there was no question of appellant having knowledge that deceased Amrik Singh would be present in the grain market. It was, thus, prayed that evidence on record is not sufficient to sustain the conviction of Gurpreet Singh, thus, present appeal be allowed, judgment and order dated

31.10.2017 passed by learned Additional Sessions Judge, Ferozpur be set aside and appellant be acquitted of the charges against him.

10. Per contra learned counsel for State submits that impugned judgment and order has been correctly passed by learned trial Court after proper appreciation of evidence on record. It is proved on record that death of Amrik Singh was homicidal in nature and had been caused by Gurpreet Singh from the licenced weapon recovered from him. Presence of complainant Lakhwinder Singh and Jujhar Singh, who are natural witnesses is duly proved on record. Reference to the so-called first FIR, Ex.D3, is of no use to the appellant because said document is not proved on record and its authenticity is clearly suspect. All arguments, as raised by learned counsel for appellant had been refuted by learned counsel for State, who sought dismissal of the appeal.

11. Learned counsel for complainant submits that the clear cut eye-witness account by the complainant and his son Jujhar Singh deposing as PW1 and PW2, respectively, cogently proves the involvement of Dalip Singh as well in murder of Amrik Singh. Dalip Singh, it was submitted, has been incorrectly acquitted by learned trial Court. It was, thus, prayed that CRA-AD No.88 of 2019 be allowed and Dalip Singh be convicted for the offences as charged and sentenced to the maximum punishment as provided under the law. It was also prayed that sentence imposed upon Gurpreet Singh is inadequate, thus same be enhanced.

12. We heard learned counsel for parties at length and have carefully perused the record.

13. It is a matter of record that on receipt of information about admission

of Amrik Singh at Mission Hospital, Ferozepur, SHO Jaswant Singh, PW12, alongwith other police officials proceeded to the said hospital. Upon the doctor declaring the injured unfit to record his statement, statement of PW1 Lakhwinder Singh i.e., brother of deceased was recorded, on the basis of which FIR, Ex.PW12/5, was registered at about 7.15 p.m. FIR was initially registered under Sections 307/34 IPC alongwith Section 25 of Arms Act, with Section 302 IPC added later upon death of Amrik Singh at about 7.30 p.m. Special report was received by learned Additional Chief Judicial Magistrate (D) at about 9.30 p.m. on 02.08.2011 itself. As per affidavit, Ex.P1, of Dr. Aparjita Singh, Medical Officer, Mission Hospital, Ferozepur, Amrik Singh was admitted at the hospital on 02.08.2011 at about 1.15 p.m. with gun shot injury to the abdomen. Intimation was immediately sent to Police Station Cantt. Ferozepur. Patient alongwith his brother Lakhwinder Singh gave primary history of injuries sustained by Amrik Singh to the extent that he was shot in the stomach twice by a man who got out of a jeep with gun and incident took place near Airtel office, Ferozepur Cantt. on 02.08.2011 at 12.45 p.m. As per MLR, Ex.PW14/B, following injuries were found on the person of Amrik Singh:-

- “i) Gunshot injury to Abdomen – Entry wound 10 cm away from umbilicus on the right side in the midclavicular line.
- ii) Gunshot injury to Abdomen – Entry wound 5 cm above anterior superior iliac spine on the right side in the midaxillary line.”

14. Both the injuries were stated to be dangerous to life and probable duration between injury and death was less than one hour. MLR, Ex.PW14/B, was identified by Dr. Aparjita. She further stated in her affidavit that x-ray of

abdomen of patient was conducted, which revealed two radio opaque objects in the pelvis. Patient was posted for laparotomy. He was operated upon by Dr. Anurag Ameen. However, Amrik Singh passed away at 7.30 p.m. on 02.08.2011. X-ray report, clothes, MLR, death certificate and dead body were handed over to the police officials. Dr. Aparjita Singh (PW1) has categorically stated that as per information revealed to her by relatives of patient, only one person came on a jeep and fired two shots from his gun upon the patient Amrik Singh. She denied that some unknown persons had brought the injured to the hospital and name of Lakhwinder Singh was introduced at a later stage. PW9, Dr. Rajinder Manchanda, Medical Officer, Civil Hospital, Ferozepur carried out post mortem upon Amrik Singh. He has specifically deposed in this respect. He has deposed about two gun shot wounds on the person of Amrik Singh besides one incised wound. As per post mortem report duly proved by Dr. Rajinder Manchanda, PW9, cause of death was due to shock and haemorrhage. Injury to vital organs i.e. small and large intestines and mesentery due to fire arm injury was found which was ante mortem in nature and sufficient to cause death in the ordinary course of nature. It is, thus, proved on record that death of Amrik Singh was homicidal in nature, caused due to gun shot injuries in the abdomen which were sufficient to cause death in the ordinary course of nature.

15. It is also a matter of record that pursuant to disclosure statement of Gurpreet Singh, his licensed weapon was recovered alongwith empty cartridges which were duly sent for examination to CFSL through PW8, Head Constable Raj Kulwinder. Doubtlessly, as per FSL report, Ex.PA, no definite opinion could be

given regarding the two jacketed bullets marked, CB/1 and CB/2. However, this fact by itself cannot be of any avail to appellant in view of the clear and cogent evidence on record, including ocular evidence, which is sufficient to sustain conviction of appellant.

16. It is to be noted at this stage that PW1 and PW2 i.e., brother and nephew of the deceased have given a consistent eye witness account of the incident as it unfolded and as is revealed in the FIR itself. They were subjected to lengthy cross examination but nothing could be elicited in favour of appellant - Gurpreet Singh. Both these witnesses in one voice stated that it was Gurpreet Singh who fired two shots which hit Amrik Singh in the abdomen. We do not find any merit in the argument raised on behalf of appellant - Gurpreet Singh that presence of PW1 Lakhwinder Singh and PW2 Jujhar Singh at the spot of occurrence is doubtful. Such argument is not substantiated in any manner. It is a matter of record that the incident in question took place at about 12.00/12.30 noon and as per intimation (Ex. P4) sent by Mission Hospital to the Police Station, it is specifically mentioned that patient Amrik Singh had been admitted to hospital on 02.08.2011 at 1.00 p.m. with diagnosis of gun shot injury. It is thereafter that police personnel led by the then SHO Jaswant Singh proceeded to the spot. Medical record of the hospital available on record (Ex.P8 and Ex.PW14) also indicates the time of incident to be about 12.45 p.m. and examination of patient is noted to be 1.15 p.m. Informant is mentioned to be the brother Lakhwinder Singh. Bed Head Ticket records, x-ray report show two radio opaque objects in the pelvis at 2.00 p.m. Merely because name of Lakhwinder Singh was not recorded in the MLR, by no

stretch of imagination creates a dent in the prosecution version as was urged by learned counsel for appellant.

17. It is to be noted that application dated 02.08.2011, Ex.PW14/F, was submitted by SHO Police Station Ferozpur Cantt. seeking issuance of MLR of injured Amrik Singh to ascertain actual position of injuries. Police personnel, specifically Inspector Jaswant Singh SHO of the Police Station had arrived at the hospital only after receiving intimation about admission of the patient Amrik Singh. Furthermore, reference to photocopy of so-called FIR, Ex.D3, by learned counsel for appellant, is also of no use because FIR, Ex.PW12/5, was registered promptly on the statement of Lakhwinder Singh i.e. Ex.P1. It has been correctly held by learned trial Court that no reliance can be placed on document Ex.D3 for the reason that apart from being a photocopy, first page thereof is same as Ex.PW12/5 whereas second page mentions the facts differently. In the actual FIR (Ex.PW12/5), all rows are in continuity and there is no blank space on any of the pages whereas in Ex.D3 second page ends abruptly with most of the said second page being empty and blank with a separate version starting on the next page. Such sequence does not lend credence to genuineness of the document. Thus, it has been correctly held by learned trial Court that in the absence of any affirmative evidence to show the source of this document, no reliance can be placed on it to conclusively hold that there has been manipulation of any facts. Moreover, it was only the first page of Ex.D3 which is recorded to have been put to PW12 - Investigating Officer.

18. The factum of co-accused Dalip Singh being acquitted on the basis of evidence on record cannot be of any avail to present appellant in the given factual

matrix where the evidence clearly proves the case against him beyond all reasonable doubt. Similarly, in the given facts and circumstances, reference to statement of PW1 and PW2 to the effect that their clothes were not stained with blood or that there were no blood stains in the car cannot be the basis for acquittal of appellant - Gurpreet Singh. Equally devoid of merit is the argument that non-proving of motive on record deals a fatal blow to the prosecution case. In the light of clear and cogent ocular version which is duly corroborated by medical evidence on record, presence or otherwise of motive fades into oblivion. Thus, in our considered opinion, prosecution has indeed successfully proved its case against Gurpreet Singh beyond all reasonable doubt.

19. Allegation against Dalip Singh was that he, when present alongwith Gurpreet Singh had fired in the air with his revolver. However, it is a matter of record that no weapon was recovered from said Dalip Singh, who had been found innocent during investigation. Inquiry had been conducted by DW3, Gurmeet Singh, AIG. Furthermore, PW12, Jaswant Singh SHO the Investigating Officer, had stated in his cross examination that there was 16/17 persons present in the grain market at the place of occurrence. They were interrogated by him and all of them said that they heard the sound of only two fire shots and had not seen the occurrence. PW12 further revealed that during investigation it came to light that Dalip Singh was present at village Chuggatte Wala at the time of alleged occurrence. Presence of Dalip Singh at village Chuggatte Wala was confirmed by Baljit Singh, Bipan, Bandu, Jasbir Singh all Junior Engineers, Rajesh Kumar Cashier, Baldev Singh Lineman, Gurmail Singh Clerk, Joginder Singh SSO and

Jarnail Singh ELM of Punjab State Electricity Board. All of them confirmed that Dalip Singh was present at the grid of Chuggatte Wala from 9.00 a.m. to 5.00 p.m. on 02.08.2011. Testimony of DW1, Ajaib Singh and DW2, Hans Raj who were officials of PSPCL rule out the presence of Dalip Singh at the spot. These witnesses have categorically deposed that on the date of occurrence, Dalip Singh was present on duty. Reference can also be made to Ex.DW3/A that is an application submitted by one Darshana Rani wife of Pamma and Veena wife of Baggar the two other accused who were named initially by eye witnesses but not summoned by Court to face trial after dismissal of application under Section 319 Cr.P.C. qua him. It is mentioned in this application (Ex.DW3/A) that on the date of occurrence Gurpreet Singh was going to Ferozepur Cantt. on his jeep and on the way he had met Pamma and Baggar who were going on foot and being acquainted with them he had given them a lift, asking them to help him load fertilizer in his jeep and they would return in 10-15 minutes. Gurpreet Singh had thereafter with his weapon killed some person, but their husbands were innocent labourers and knew nothing about the occurrence. This document also does not mention the presence of Dalip Singh. PW1 and PW2 have admitted that 10-15 persons from both sides have joined for inquiry and they too had been associated in the inquiry in which Dalip Singh was exonerated. It is further to be noted that it is recorded in the Bed Head Ticket (Ex.P14/F) that Lakhwinder Singh (PW1) disclosed to the doctor that Amrik Singh had been shot twice by a man who got out of a jeep with a gun. This is a version apparently disclosed immediately after the incidence.

20. In the given factual scenario, we do not find any merit in the

arguments raised by learned counsel for complainant that acquittal of Dalip Singh is incorrect or illegal. Prosecution has indeed failed to prove its case against Dalip Singh beyond reasonable doubt. Dalip Singh has, thus, been correctly acquitted of the charges against him. There is, thus, no merit in the appeal filed by complainant seeking setting aside of acquittal of Dalip Singh. It is pertinent to note at this stage that acquittal of accused is not to be set aside lightly and that there have to be strong, compelling and substantial reasons to set aside acquittal of the accused. Simply because another view may be possible, cannot be a ground for reversing a judgment of acquittal. Hon'ble Supreme Court in **Arulvelu v. State represented by the Public Prosecutor, 2009(10) SCC 206** held that:-

“Unquestionably, the Appellate Court has power to review and re-appreciate the entire evidence on record. The appellate court would be justified in reversing the judgment of acquittal only if there are substantial and compelling reasons and when the judgment of the trial court is found to be perverse judgment. Interfering in a routine manner where other view is possible is contrary to the settled legal position crystallized by aforementioned judgments of this Court. The accused is presumed to be innocent until proven guilty. The accused possessed this presumption when he was before the trial court. The trial court's acquittal bolsters the presumption that he is innocent. This fundamental principle must be kept in view while dealing with the judgments of acquittal passed by the trial court.”

21. Reference in this regard can also be made to judgment of Hon'ble Supreme Court in **State of Rajasthan versus Kistoora Ram, 2022(4) RCR (Criminal) 324**, wherein it is held that it is not permissible to interfere with finding

of acquittal unless it is found that the view taken by Court is impossible or perverse. It is a settled position of law that acquittal of an accused is not to be set aside only if another view may be possible under the given facts and circumstances.

22. There is further no merit in the argument raised on behalf of learned counsel for complainant for enhancement of sentence imposed upon accused - Gurpreet Singh. Apart from the fact that the present is not a case presenting rarest of the rare, it is to be noted that complainant is not entitled to seek enhancement of punishment awarded to the accused. No serious argument was addressed in regard to grant of compensation. It is, however, directed that the amount of fine imposed upon the appellant, be paid as compensation to legal heirs of the deceased on realisation.

23. Keeping in view the facts and circumstances as above, we do not find any infirmity, illegality or perversity in impugned judgment of conviction dated 31.10.2017 and order of sentence dated 07.11.2017 passed by learned Additional Sessions Judge, Ferozepur.

24. Accordingly, with the abovesaid direction for release of the amount of fine imposed upon the appellant to be paid as compensation to legal heirs of the deceased, both the appeals i.e., CRA-D No.1105-DB of 2017 and CRA-AD No.88 of 2019 are dismissed being devoid of any merit.

(**LISA GILL**)
JUDGE

(**ALOK JAIN**)
JUDGE

May 3 , 2025.

'om'

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