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

CRA-D-481-DB-2004

Date of Reserve: 29.10.2025

Date of Decision: 13.01.2026

Malkiat Singh and Anr.

...Appellants

Vs.

State of Punjab

...Respondent

Coram : **Hon'ble Mr. Justice N.S.Shekhawat**
 Hon'ble Ms. Justice Sukhvinder Kaur

Present: Mr. Vikas Chathrath, Sr. Advocate with
 Mr. Abhishek Singla, Advocate
 Mr. B.P.S Thakur, Advocate
 for the appellants.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.Shekhawat J.

1. By way of the instant appeal, the appellants have challenged the impugned judgment of conviction and order of sentence dated 08.01.2004, passed by the Court of Additional Sessions Judge, Amritsar, whereby, the appellants have been convicted for commission of the offences punishable under Sections 364,302,201 of IPC, the appellants have preferred the present appeal before this Court.

2. The FIR (Ex.PA/2) was ordered to be registered on the basis of the statement (Ex.PA) made by Harbans Lal son of Toti Ram, resident of Dashmesh Nagar, Ward No.1, Old Kairon Road, Patti and the said statement has been reproduced below:-



“Stated that I am resident of above address and I am retired Shunting Master of Railway Department I have performed two marriages. My first wife Ram Piari had expired and out of her womb my son Ram Parkash @Sabi was born and from my second marriage four sons and two daughters were born. My son Ram Parkash @ Sabi is married for last 10/11 years and is residing with his wife Rajbir Kaur d/o Sukhdev Singh @ Sukha of Khem Karan and his children separate from me for the last 4/5 years in his house of Raghbir Singh Bedi, Single Basti, Patti. Malkiat Singh son of Nirmal Singh, caste Mazbi, resident of Mehmoodpura P.S Valtoha at present Single Basti, Patti who is neighbourer of my son and is residing on rent, developed illicit relations with my daughter-in-law Rajbir Kaur. My son used to stop his wife Rajbir Kaur to carry on these relations to which my daughter-in-law Rajbir Kaur used to object upon on. On 5.4.2002, I went to my son Sabi to his house and there was a big altercation between my son and my daughter-in-law Rajbir Kaur due to her illicit relations. After that day on 5.4.2002, I went to the house of my son sabi and found the same locked and my daughter-in-law alongwith her children had disappeared and on enquiry it came to my knowledge that Malkiat Singh above was also missing on that day. Thereafter, I went to the matrimonial house of my son at Khem Karan and enquired them about my son and daughter-in-law but they did not give any satisfactory reply. I am sure that Malkiat Singh s/o Nirmal Singh Caste Mazbi r/o Mehmood Pura P.S.Valtoha present r/o Single Basti Patti and my daughter-in-law Rajbir Kaur in connivance with each other have kidnapped my boywith the intention to kill him. It may be possible that after killing him, his dead body might have disposed of. Till today, I have been kept searching for my son from my relatives and all around but could not get any clue. I alongwith Kashmir Singh s/o Naranjan Singh caste Mazbi r/o Patti was going to the Police Station for reporting this matter that you met me. Legal action be taken” Sd- In English,



Harbans Lal above”.

3. After the registration of the FIR, the investigation in the present case was formally commenced. On the next date of registration of the case, the appellants/accused were produced before SHO Police Station Patti by Surta Singh. They were interrogated and after finding sufficient evidence against them, they were ordered to be arrested. Malkiat Singh, appellant No.1/accused suffered a statement that the dead body of Ram Parkash @ Sabi deceased was dumped by both accused on the bank of drain near Kandiala road and he got the dead body recovered. Similarly, Rajbir Kaur, appellant No.2/accused also made a statement to the police that *parna of* Ram Parkash @ Sabi was kept by her underneath the bushes near the drain and she alone could get the same recovered, accordingly. The police moved an application to S.D.M, whereby, the request was made to depute some Magistrate during the process of recovery of dead body and accordingly, Varinder Bhatia, Executive Magistrate was sent as an Executive Magistrate. Photographer Gurpreet Singh and brother of the deceased also joined the police party and at the instance of Malkiat Singh appellant No.1, the dead body of Ram Parkash @ Sabi was recovered, which was duly identified by Lajpat. It was taken into possession by the police and the entire process was supervised by the Executive Magistrate. Even, Gurpreet Singh Photographer had photographed the dead body. Similarly, *parna of* Ram Parkash @ Sabi was recovered at the instance of Rajbir Kaur, appellant No.2. After the recovery of the dead body, the inquest report was prepared and the post mortem on the dead body of Ram Parkash @ Sabi was conducted. The police prepared the site plan of the place of recovery of the dead body as well as *parna* and after conducting the post mortem examination, the dead body was



handed over to the family of the deceased. After completion of the investigation, the challan under Sections 364,302,201,34 of IPC was presented before the Court. Since, the case was triable by the Court of Sessions, the Area Magistrate ordered the committal of the case to the Sessions Court at Amritsar.

4. After committal, the Trial Court found a prima facie case under Sections 364,302,201 of IPC was made out against both the appellants and they were ordered to be charge-sheeted accordingly. Both the appellants pleaded that they had been falsely involved and were innocent and prayed for holding a trial in the present case.

5. To prove the charge against the appellants, the prosecution examined Harbans Lal, complainant as PW-1, who reiterated his statement (Ex.PA) in the present case and fully supported the case of the prosecution. In his cross-examination, he stated that Ram Parkash @ Sabi was residing at Patti, whereas, Malkiat Singh, appellant No.1 belonged to Mehmoodpura, which is at a distance of 25/26 kilometres from Patti. He was not having details of the family of Malkiat Singh, appellant No.1. The prosecution further examined PW-2 Swaran Dass, who was returning to his home from Village Kandiala at about 09:00 P.M on 06.04.2002. Malkiat Singh, appellant No.1 met him near the village and asked him to go home. However, Malkiat Singh, accused replied in a doubtful manner that he was waiting for somebody. When he went a bit further, Rajbir Kaur appellant No.2/accused was found coming along with her husband Ram Parkash @ Sabi, since deceased. They told him that they were going in connection with some work and after 5/6 days, he came to know that Ram Parkash @ Sabi has been killed. The prosecution further examined PW-3 Rishi Ram Draftsman, who had prepared the scaled site plan Ex.PB. Similarly,



prosecution examined Gurpreet Singh, Photographer as PW-4, who visited the spot of occurrence and photographs were exhibited as Ex.P-9 to P-16 and the negatives were proved as Ex.P-1 to Ex.P-8. The prosecution further examined S.I Ram Nath as PW-5, who was one of the IOs in the present case and had taken into possession the photographs and negatives Ex.P-1 to P-16. The prosecution further examined Varinder Bhatia, Naib Tehsildar as PW-6, who had joined the police party on 15.04.2002 and had accompanied them to a drain on the eastern side of Patti. Both the accused were also present along with police. At the instance of the accused, the dead body of Ram Parkash @ Sabi was recovered from the drain and the dead body was wearing only one underwear. It was taken into possession by the police vide a recovery memo Ex.PE, which was attested by him. In his cross-examination, he stated that he could not say as to who were the owners of the land from where the dead body of Ram Parkash @ Sabi was recovered. He could not tell as to what was situated on either side of the place of recovery. The prosecution further examined PW-7 C. Chiman Singh, whose evidence was formal in nature. Similarly, prosecution examined S.I Manmohan Singh, CIA Staff, Batala as PW-8, who was posted as SHO on the date of occurrence. He had recorded the statement (Ex.PA) of the complainant and had prepared the site plan of the occurrence Ex.PG with correct marginal notes. Even he had arrested both the accused and they had made their respective disclosure statements in his custody. As per the disclosure statement Ex.PH of Malkiat Singh, he was taken to a place near the drain and at his instance, the dead body of deceased was recovered by the police. The dead body was identified by Lajpat to be of his brother Ram Parkash @ Sabi and it was taken into possession by the police.



Similarly, in pursuance of disclosure statement Ex.PH/1, Rajbir Kaur got recovered the *parna* Ex.P-17 of the deceased and the same was taken into possession by the police. Even, the site plan of the place of recovery Ex.PN was prepared and also the site plan of place of recovery of *parna* Ex.PN-1 was prepared by him. He also send the dead body for post mortem examination and made various other recoveries as well.

6. The prosecution further examined Dr. Sukhwinder Singh, Medical Officer as PW-9, who had conducted the post mortem examination on the dead body of Ram Parkash @ Sabi on 15.04.2002 and he deposed that as per the police information, the death was due to strangulation on 06.04.2002. The relevant extract of his testimony has been reproduced below:-

“The length of the body was 5x7”. Ligature mark was present around the neck on the mid line lower part about 30x3 cm. It was dead body of adult male in advance stage of putrefaction. Skin discoloured and feeling off. Face congested swollen. Eyes prominent soft. Tongue protruded in teeth. Teeth loosened can be easily removed. Nails loosened can be easily removed. Hair fallen off. Wearing underwear earthen colour.

Skull setured loosened. Brain was liquified. There was legature mark 30x30 cm around the neck on middle and lower part on dissection muscles putrifying lacerated, tracheal rings fractured. Carotid vessels lacerated. Froethy secretion present on treaches. The walls ribs cartilages pleurae layering and tracheat were putrified. Left and right lungs were congested and putrifying. Large intestine was congested and putrifying. In the abdomen, walls,distendered putrifying. Peritoneum putrifying. The other organs of abdomen were putrifying. In my opinion, the death in this case was caused by Asphyxia due to injury no.1 which was sufficient to cause death in the ordinary course of nature. The



probable time between injury and death was immediate and between death and post mortem was 7 to 10 days. After post mortem examination I handed over to the police R.D.body, clothers, police papers 1 to 14. Carbon copy of post mortem report. I have brought the original post mortem report. Ex. PR is the correct carbon copy of the original prepared with the same process in which the original was prepared which was written and signed by me. The postmortem was conducted on the police request Inquest report is Ex.PK was received alongwith the request and was duly signed by me. Ex.PK/1 was also received alongwith the request for conducting post mortem examination was duly initiated by me”.

In his cross-examination, he denied that the dead body was not in a identifying condition as the same had putrified.

7. In the end, the prosecution examined Surta Singh as PW-10, who stated that on 14.04.2002, the accused present in the Court came to him as they were known to him, being his customers of his cloth shop at Patti. They both confessed one by one that they had developed extra marital relationship and Ram Parkash @ Sabi, husband of Rabir Kaur did not like the same. On account of this, both had joined hands and Ram Parkash @ Sabi was killed by them. After killing, his dead body was concealed in a village drain and they requested him to help them in appearing before the police as he had acquaintance with the police officials. He came to his shop and produced them before SHO Patti. In his cross-examination, he stated that he was running a shop at Patti since 1979. He was a Director and Chairman of the Punjab Land Mortgage Bank, Patti and was also Director of Shero Sugar Mill. Even, the accused had been coming to his shop for the last 10/15 years. He was maintaining the accounts of the shop,



but he had not produced the same before the Trial Court. Malkiat Singh, appellant No.1/accused had come to him first in the first instance and Rajbir Kaur, appellant No.2/accused came a little thereafter. He had been instrumental in getting settlements reached in number of cases including police cases. He had been frequently visiting police stations, but he never appeared as a witness in another case.

8. After the prosecution had closed its evidence, the entire prosecution evidence was put to both the accused/appellants in the shape of their statements under Section 313 Cr.P.C.

9. Both the appellants denied that they knew each other. Further, they had never met Surta Singh nor made any alleged statement before him and they had been falsely involved in the present case. The accused chose not to lead any defence evidence.

10. Learned senior counsel appearing on behalf of appellants vehemently argued that the present case was based on circumstantial evidence and the link evidence was clearly missing in the present case. Still further, the case was based on the testimony of related and official witnesses, who were interested and ensuring the conviction of the appellants without any evidence on record. Learned counsel further argued that even the date of occurrence was not certain and it cannot be said that PW-2 Swaran Dass had seen the appellants in the company of the deceased, immediately before the occurrence. Further, the prosecution witnesses had no reason to go to PW-10, Surta Singh to make an extra judicial confession before him. Even, he was a simple shopkeeper and it is not even the case of the prosecution that he wielded some influence in the society. Even, there was no occasion for both the appellants to approach him



and to repose confidence in him. Still further, there were material discrepancies in the statements of various prosecution witnesses, which were completely overlooked by the Trial Court.

11. On the other hand, learned State counsel vehemently argued that in the present case, the prosecution had lead sufficient incriminating evidence against both the appellants. Even, both the appellants had made extra judicial confession before PW-10, Surta Singh and on production before the police, they were interrogated by the police. Even, both the appellants got recovered the dead body of Ram Parkash @ Sabi, in the presence of the Executive Magistrate and the brother of the deceased had identified the dead body to be of his brother. Still further, it was also apparent from the testimony of PW-2 Swaran Dass that at about 09:00 P.M on 06.04.2002, he had seen both the appellants in the company of Ram Parkash @ Sabi, since deceased and immediately thereafter, Ram Parkash @ Sabi was murdered by the appellants. Still further, it was also apparent from the testimony of PW-1 Harbans Lal that the appellants were having illicit relations with each other and just to get rid of Ram Parkash @ Sabi, he was eliminated by both of them in a conspiracy with each other. Thus, the impugned judgment is liable to be upheld by this Court.

12. We have heard learned counsel for the parties and perused the record carefully; with their able assistance.

13. It is an admitted fact that there was no eye witness to the incident in the present case and the case of the prosecution is based on circumstantial evidence.

14. The law on the issue of proof of guilt on the basis of circumstantial evidence was laid down by the Hon'ble Supreme Court in the matter of



“Sharad Birdichand Sarda Vs. State of Maharashtra, reported in (1984) 4

SCC 116 by observing as follows:-

"A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned "must or should" and not "may be" established. There is not only a grammatical but a legal distinction between "may be proved" and "must be or should be proved" as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra where the observations were made:

Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty.

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."

15. Similar observations were made by the Hon'ble Supreme Court in the matter of “G. Parshawanath Vs. State of Karnatka”, 2010 (8), SCC 593



as follows:-

23. In cases where evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should, in the first instance, be fully established. Each fact sought to be relied upon must be proved individually. However, in applying this principle a distinction must be made between facts called primary or basic on the one hand and inference of facts to be drawn from them on the other. In regard to proof of primary facts, the court has to judge the evidence and decide whether that evidence proves a particular fact and if that fact is proved, the question whether that fact leads to an inference of guilt of the accused person should be considered. In dealing with this aspect of the problem, the doctrine of benefit of doubt applies. Although there should not be any missing links in the case, yet it is not essential that each of the links must appear on the surface of the evidence adduced and some of these links may have to be inferred these inferences, common course of natural events and to human conduct and their relations to the facts of the particular case. The Court thereafter has to consider the effect of proved facts."

16. The Hon'ble Supreme Court further elaborated the law relating to the cases, which are based on circumstantial evidence and held in the matter of **"Padala Vera Reddy Vs. State of Andhra Pradesh and Ors." reported in 1989 Supp (2) SCC 706** as follows:-

- (a) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;*
- (b) those circumstances should of a definite tendency unerringly pointing towards guilt of the accused;*
- (c) the circumstances, taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and*



none else; and

d) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence.

17. Now, we would advert to the evidence led by the prosecution in the present case, in the light of the above-stated observations made by Hon'ble Supreme Court in various judicial pronouncements. The criminal law was set into motion by PW-1 Harbans Lal, who had made his statement Ex.PA to the police, which led to the registration of the formal FIR Ex.PA/2. He clearly stated that his son Ram Parkash @ Sabi was married to Rajbir Kaur, appellant No.2 about 10/11 years before the occurrence. Appellant No.1 namely Malkiat Singh had developed extra marital relations with appellant No.2 namely Rajbir Kaur and Ram Parkash @ Sabi, being husband of Rajbir Kaur, appellant No.2 used to oppose their relationship. However, the appellants did not like it and on 05.04.2002, when complainant visited their house, they were fighting with each other in connection with the said relationship. Later on, when he visited the house of Ram Parkash @ Sabi on 08.04.2002, house was found locked and no one was available there. Rather, it was revealed that Malkiat Singh, appellant No.1 was also missing from his home. Ultimately, both the appellants appeared before PW-10, Surta Singh on 14.04.2002 and requested him to produce them before the police. It is also apparent from the testimony of PW-10 Surta Singh that he was a person, who wielded influence and had remained Director and Chairman of the Punjab Land Mortgage Bank, Patti and was also Director of Shero Sugar Mill and the accused had been coming to his shop for the last



10/15 years. Even, he had been visiting the police station frequently and was having good relations with the local police. Thus, the appellants had approached him with a view to help them and to produce them before the police.

18. Accordingly, PW-10 Surta Singh produced both the appellants before the police and they suffered their respective disclosure statements. At the instance of appellant No.1, the dead body of Ram Parkash @ Sabi was recovered from underneath the earth near the drain and the dead body was identified by Lajpat to be brother of Ram Parkash @ Sabi. Even, the *parna* of the deceased Ex.P-17 was recovered at the instance of Rajbir Kaur, appellant No.2 and all these proceedings were duly conducted in the presence of an Executive Magistrate i.e. PW-6 Varinder Bhatia, Naib Tehsildar. In fact, Varinder Bhatia, Executive Magistrate was an independent witness and had no reasons to join hands with the complainant side or the police and thus, the recovery of dead body at the instance of the appellants was a clinching circumstance, which unerringly pointed towards the guilt of both the appellants.

19. Apart from that, in a case of circumstantial evidence, motive also play a vital role. In the present case, this Court has perused the testimony of PW-1, Harbans Lal, who visited the house of Ram Parkash @ Sabi and Rajbir Kaur, appellant No.2 and found them fighting over the illicit relations between both the appellants. Even, Harbans Lal categorically stated that both the appellants were having illicit relations with each other since long and Ram Parkash @ Sabi, since deceased objected to their relationship. Even, both the appellants had appeared before PW-10 Surta Singh and clearly admitted that they had developed extra marital relationship, which was not liked by Ram Parkash @ Sabi. Thus, the prosecution has been successful in proving the



motive on the part of the appellants to commit the crime. Apart from that, in the present case, the prosecution had further examined PW-2 Swaran Dass, who deposed that he was returning to his home from Village Kandiala at about 09:00 P.M on 06.04.2002. He found Malkiat Singh, appellant No.1 near his village. He asked him to go home, but he replied in a doubtful manner that he was waiting for somebody. He went a bit further and found that Rajbir Kaur, appellant No.2 was coming with her husband namely Ram Parkash @ Sabi, since deceased and they told him that they were going somewhere in connection with some work. After 5/6 days, he came to know that Ram Parkash @ Sabi had been killed. Even, PW-2 was cross-examined by learned defence counsel, but his testimony could not be shattered in any manner. The statements of all the witnesses were dully corroborated by the testimony of PW-9 Dr. Sukhwinder Singh, Medical Officer, who had conducted the post mortem examination on the dead body of Ram Parkash @ Sabi and the dead body was duly identified by Lajpat and Balwinder Singh. As per him, there was ligature mark 30 x 3 cm around the neck on the middle and lower part and in his considered opinion, the death was caused by Asphyxia, due to injury No.1, which was sufficient to cause death in ordinary course of nature. Thus, it was apparent that both the appellants had strangulated Ram Parkash @ Sabi to death and after committing his murder, the dead body was hidden by both the appellants, which was ultimately recovered at their instance only. Thus, the prosecution evidence clearly proved on record that both the appellants had not only abducted the deceased in order to kill him, but also killed him by strangulation and concealed his dead body as well as *parna* and ultimately, the recoveries were made by the police party, in pursuance of their disclosure



statements. Even, the recoveries were made in the presence of Varinder Bhatia, Executive Magistrate, an independent witness and the prosecution has been successful in proving the charge against both the appellants beyond any doubt.

20. Even otherwise, we have carefully gone through the findings recorded by the Trial Court and find that the trial Court has recorded the well reasoned findings, based on correct appreciation of evidence and law. We also find ourselves in full agreement that the reasons recorded by the Trial Court and find no grounds to set aside the impugned judgment and order passed by the Trial Court.

21. Accordingly, impugned judgment of conviction and order dated 08.01.2004, passed by the Court of Additional Sessions Judge, Amritsar are ordered to be upheld by this Court and the present appeal is ordered to be dismissed.

22. Ordered accordingly.

23. The appellants may be taken in custody forthwith, if on bail, to serve the remaining sentence.

**(N.S.SHEKHAWAT)
JUDGE**

**(SUKHVINDER KAUR)
JUDGE**

13.01.2026
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No