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CRA-D-496-DB-2004 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**Reserved on 09.07.2025
Pronounced on:15.07.2025**

(1) CRA-D-496-DB-2004 (O & M)

Ajit Singh and another

.... Appellants

V/s

State of Punjab

...Respondent

(2) CRR-1181-2005 (O & M)

Mohinder Kaur

.... Petitioner

V/s

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Gautam Dutt, Advocate,
Mr. A.S. Sidhu, Advocate and
Mr. Ankur Mehta, Advocate,
for the appellant (in CRA-D-496-DB-2004).

Mr. Siddharth Attri, AAG, Punjab.

Mr. L.S. Sidhu, Advocate,
for the petitioner (in CRR-1181-2005) and
for the complainant (in CRA-D-496-DB-2004).

JASJIT SINGH BEDI, J.

This order shall dispose of a criminal appeal i.e. **CRA-D-496-DB-2004** preferred by the accused-appellants No.1 and 2, namely, Ajit Singh



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and Gurcharan Singh against the judgment of conviction and order of sentence dated 30.04.2004 passed by the Additional Sessions Judge (Adhoc), Amritsar and the other revision petition bearing No. CRR-1181-2005 preferred by Mohinder Kaur challenging the aforesaid judgment whereby accused-respondents No.2 and 3, namely, Jasbir Kaur and Gian Kaur have been acquitted.

2. Ajit Singh-appellant No.1 passed away on 19.05.2022 and the appeal stands abated qua him vide separate order of even date i.e. 09.07.2025.

2. The FIR in the present case (**CRA-D-496-DB-2004**) came to be registered on 13.09.2000. The judgment of conviction and order of sentence was passed on 30.04.2004 by the Additional Sessions Judge (Adhoc), Amritsar. The present appeal was filed on 02.08.2004 against the aforesaid judgment of conviction and order of sentence and has come up for final hearing now i.e. after a period of 25 years from the date of registration of the FIR.

3. For the sake of convenience, the facts are being taken from CRA-D-496-DB-2004.

4. Briefly stated, the allegations of complainant-Mohinder Kaur are that her husband had died in 1981 and at that time, her only daughter Kirandeep Kaur alias Mahani was of the age of about six months. Her husband owned 24/25 killas of land of his share in the estate of Harike

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which after his death, was cultivated by his brother, Ajit Singh, accused who used to give her little bit of a share of the produce. When Kirandeep grew up, Mohinder Kaur required Ajit Singh to give her share of the land and also share of the produce, who did not do so. So, she had left her house which was at Harike and she migrated to her parents house at village Bahamaniwala. Kirandeep Kaur was studying in Khalsa College, Amritsar and at the time of the occurrence was of the age of 19/20 years. She used to live in a rented house of Amritsar. On 16.02.2000 (at some places 16.01.2000 has been mentioned in the Trial Court judgment dated 30.04.2004), Mohinder Kaur came to Amritsar to see her daughter and she met her. On 25.02.2002, Kirandeep Kaur went to the petrol pump of Ajit Singh, accused at Harike to take some payment from him. Baljit Singh son of Nirmal Singh resident of Kirtowal was already there who was the son of her sister. Kirandeep Kaur demanded payment from Anil Kumar Shukla, salesman of the petrol pump and also enquired from him about Ajit Singh. Anil Kumar Shukla called Gurcharan Singh-accused to the spot who asked Kirandeep Kaur to go to his house. When she refused, he abused her and locked her in a room at the petrol pump and called Jasbir Kaur and Gian Kaur-accused to the spot. In the meantime, Kulwant Singh s/o Naranjan Singh also reached there at the petrol pump. On the persuasion of all of them, Kirandeep Kaur accompanied Gurcharan Singh and other accused to their house. When Baljit Singh protested with them as to where they were taking Kirandeep Kaur they told him that she was to be taken by them to

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their house. Baljit Singh went back to Kirtowal. On the same day, in the premises of the Courts at Patti, Ajit Singh accused met Gurinder Singh. Gurcharan Singh accused also came there in the Jeep. Ajit Singh had some talks with Gurcharan Singh and Ajit Singh requested Gurinder Singh to accompany Gurcharan Singh to Harike in connection with some work. Gurinder Singh accompanied Gurcharan Singh in the jeep to Harike. Gurinder Singh saw Kirandeep Kaur at the house of Gurcharan Singh and he spoke with her. She told him that she had been taken there forcibly by the accused. Soon after, Ajit Singh also came there and he abused Kirandeep Kaur. Then all the accused had some consultation. Gurinder Singh felt that the accused had a bad intention and they wanted to kill Kirandeep Kaur and fearing that he may also not meet her fate, in the darkness of the night, he slipped away from there and reached village Bahamniwala at 9.30 P.M. and he narrated all this to her (Mohinder Kaur). On the next day, she (Mohinder Kaur), accompanied by her brothers and other relations went to the house of the accused at Harike. When she enquired from Ajit Singh about Kirandeep Kaur, Ajit Singh asked her not to raise noise and to keep her mouth closed otherwise there would be consequences. As the accused did not satisfy her about the whereabouts of Kirandeep Kaur, she suspected that she was murdered by the accused. The case was investigated by a team of police officers consisting of IG Border Range, DIG Border Range, SSP Majitha, Adish Kumar, then S.P. Operations. They joined in the investigation Baljit Singh son of Nirmal Singh, r/o Village Kirtowal, Gurinder Singh, son of



Darshan Singh, r/o Village Bahamniwala and many other persons including Satnam Singh son of Santa Singh resident of Village Jaunike and recorded their statements. Ajit Singh and Gurjant Singh accused were arrested. The other accused were found innocent. After the completion of the investigation, Challan was presented in the Court of Illaqa Magistrate. The case was committed to the Court of Sessesions. Ajit Singh and Gurcharan Singh were charge-sheeted under Sections 302/34 IPC and 201 IPC. They pleaded not guilty.

5. To prove its allegations against the accused, the prosecution examined, Baljit Singh as PW-3. At that stage, the prosecution filed an application under Section 319 Cr.P.C. for summoning Jasbir Kaur and Gian Kaur accused. That application was allowed vide order dated 21.01.2003. They appeared in Court. Copies of the documents were supplied to them. Charge was amended. Fresh charges against all the accused were framed under Section 302/34 IPC and 201 IPC. They pleaded not guilty. To bring home the allegations against the accused, the prosecution examined SI Sawinder Singh PW-1, Insp. Kashmir Singh (Retd.) PW-2, Baljit Singh PW-3, Gurinder Singh PW-4, Mohinder Kaur PW-5, Satnam Singh PW-6, Rishi Ram draftsman PW-7, Bikram Singh PW-8 and Adish Kumar SP PW-9. Baldev Singh, Surjit Singh, Balbir Singh and Darshan Singh PWs were given up, they having been won over by the accused and SI Gurdip Singh was not examined he being an unnecessary witness.

6. The gist of the prosecution evidence is as under:-



PW-1/SI Sawinder Singh stated that he had presented the report under Section 173 Cr.P.C.

PW-2/Kashmir Singh, the then SHO, Jandiala deposed as to different aspects of the investigation. In cross-examination, he stated that he did not know if Jagjit Singh had also been challaned in connection with the instant occurrence.

Baljit Singh was examined as PW-3. He stated that he was the maternal aunt's son of the deceased. On 25.02.2000, he had seen deceased-Kirandeep sitting at the petrol pump of Ajit Singh. Thereafter, in his presence, Gurcharan Singh @ Channa, Jasbir Kaur and Gian Kaur took alongwith them Kirandeep Kaur on the pretext that they would arrange money from her uncle Ajit Singh. On 26.02.2000, Mohinder Kaur, mother of Kirandeep Kaur had come to his residence and he accompanied her to Harike to the residence of Ajit Singh and Nazar Singh to meet Kirandeep Kaur. Nazar Singh told them that they would arrange their meeting with Kirandeep Kaur immediately but did not do so. Thereafter, they went to the house of Gurcharan Singh who informed them that Kirandeep Kaur had been left at the house of Ajit Singh. An altercation took place between Mohinder Kaur and Gurcharan Singh, Gurcharan Singh and Kanu inflicted injuries upon him (Baljit Singh). He was saved by the neighbours. Then, they went to Police Station Harike where they were told that SHO was not there. Thereafter, they contacted Ajit Singh many times to know the whereabouts of Kirandeep but she could not be traced. The police did not take any action.

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In cross-examination, he stated that his statement was recorded for the first time on 14.01.2002. He had not got himself medico legally examined.

Gurinder Singh, the son of the brother of Mohinder Kaur was examined as PW-4. He stated that on 25.02.2000, he had accompanied Gurcharan Singh alias Channa to the home of Ajit Singh at Harike where he met Kirandeep Kaur alias Mahani who told him that she had to take money from Ajit Singh. He explained the whole matter to his aunt Mohinder Kaur. The police had recorded his statement on 13.12.2001 for the first time.

Mohinder Kaur, mother of the deceased was examined as PW-5. Her version has already been enumerated hereinabove. In cross-examination, she stated that her daughter had met her only on 06.03.2000 and not thereafter. Baljit Singh had been beaten up by the accused Channa and Kanu with a sugarcane but had not been medico legally examined. She had gone to the Police Station but was not allowed to enter the premises. No case under Section 364 IPC had been registered against Jagjit Singh alias Gora for kidnapping Kirandeep Kaur. She denied the suggestion that Kirandeep Kaur had eloped with Jagjit Singh and that her custody was restored to her (this witness) by the police. When she was recalled for her examination-in-chief, she stated that had had seen the original complaint filed against Jagjit Singh in the case under Section 366 IPC on which she identified her signatures and the copy of the complaint was Ex.PW-3/A.

PW-6/Satnam Singh stated that Baldev Singh son of Jarnail Singh had never come to him to make any statement. When cross-examined

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by the Public Prosecutor, he denied the suggestion that on 12.12.2001, Baldev Singh had come to him and had told him that Ajit Singh-accused had come to his house and had confessed to have murdered their niece-Kirandeep Kaur and thereafter, had thrown her dead body in a canal.

Rishi Ram was examined as PW-7 regarding the site plan prepared at the instance of Gurinder Singh and Kashmir Singh.

PW-8/Bikram Singh, the maternal aunt's son of the deceased stated that on 28.02.2000, he had gone to Harike alongwith Darshan Singh, Gurdip, Surinder Singh and Mohinder Kaur where Ajit Singh, Gurcharan Kaur, Jasbir Kaur and Gian Kaur met them. They admitted that Kirandeep Kaur was in their custody and suggested a match for her for marriage. They went back but 2/3 attempts were again made to contact the accused but they were not allowed to see Kirandeep and lastly, were told that Kirandeep had run away. In cross-examination, he stated that his statement was recorded by the police on 14.01.2002.

PW-9/Adish Kumar, then posted as Superintendent of Police, Operations, Majitha stated that he conducted the investigation of this case by constituting a team. One Jagjit Singh was arrested by him regarding this murder who was earlier a proclaimed offender. Statements of Baldev Singh and Satnam Singh about an extra judicial confession having been made before them by Ajit Singh was recorded on 17.12.2001. He had arrested Ajit Singh and had recorded his statement. In cross-examination, he stated that Jagjit Singh was also an accused in this case but he did not know if he was



challaned. As per their investigation, Jasbir Kaur and Gian Kaur had been found to be innocent.

7. After completion of evidence of the prosecution, statements of the accused as envisaged under Section 313 of Code of Criminal procedure were recorded, wherein they denied the circumstances put to them. Their defence was that they had been involved in a false case at the instance of Mohinder Kaur who wanted to grab property more than her share.

8. Based on the evidence led, while two co-accused, namely, Jasbir Kaur and Gian Kaur, were acquitted of the charges framed against them, the accused-appellants, namely, Ajit Singh (since deceased) and Gurcharan Singh came to be convicted and sentenced by the Court of the Additional Sessions Judge (Adhoc), Amritsar, vide judgment of conviction and order of sentence dated 30.04.2004 as under:-

Offence U/Ss	Sentence	Fine	In default of payment of fine
302/34 IPC	Life Imprisonment each	Rs.2,000/- each	RI 02 months each
201 IPC	RI 05 years each	Rs.1,000/- each	RI 01 month each

Both the sentences were ordered to run concurrently.

9. The aforementioned judgment of conviction and order of sentence dated 30.04.2004 passed by the Additional Sessions Judge (Adhoc), Amritsar is under challenge before this Court.



10. During the pendency of this appeal, the sentences of the accused-appellants, namely, Ajit Singh and Gurcharan Singh were suspended by this Court vide order dated 23.08.2004.

11. The learned counsel for the appellants contends that there are two pieces of substantial evidence against the accused. Firstly, there is the 'last seen' evidence of PW-3/Baljit Singh and PW-4/Gurinder Singh, both being the first cousins of the deceased. Their respective statements were recorded during the course of investigation much after they had seen the deceased purportedly in the company of the accused. Therefore, the said statements would carry little evidentiary value.

12. As regards the extra judicial confession purportedly made by Ajit Singh before one Baldev Singh who subsequently, disclosed the said fact to PW-6/Satnam Singh, he contends that firstly, Baldev Singh was given up as prosecution witness and PW-6/Satnam Singh had not supported the prosecution case having turned hostile.

13. He, thus, contends that as the prosecution had led not any evidence to conclusively establish the guilt of the accused. Therefore, the impugned judgment dated 30.04.2004 is liable to be set aside and the accused-appellant No.2 be acquitted of the charges framed against them.

14. The learned counsel for the state, on the other hand, contends that the deceased was 'last seen' in the company of the accused as is apparent from the deposition of PW-3/Baljit Singh and PW-4/Gurinder Singh. Even though, they are closely related witnesses, that by itself cannot



lead to the assumption of their being false witnesses. He, thus, contends that no fault can be found with the impugned judgment of the Trial Court and the present appeal was liable to be dismissed.

15. We have heard the learned counsel for the parties.

16. The present case is based on circumstantial evidence and in the context of circumstantial evidence, the Hon'ble Supreme Court in the case of **Sharad Biridhichand Sarda Vs. State of Maharashtra, 1984 AIR Supreme Court 1622** held as under:-

"152. 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 Sahebrao Bobade v. State of Maharashtra, (1973) 2 SCC 793 where the following 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.

153. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence. ”

(emphasis supplied)

In **Ramanand @ Nandlal Bharti Versus State of Uttar**

Pradesh, 2022 AIR Supreme Court 5273, in the context of circumstantial

evidence, the Hon’ble Supreme Court held as under:-

“46. Although there can be no straight jacket formula for appreciation of circumstantial evidence, yet to convict an accused on the basis of circumstantial evidence, the Court must follow certain tests which are broadly as follows:

1. Circumstances from which an inference of guilt is sought to be drawn must be cogently and firmly established;

2. Those circumstances must be of a definite tendency unerringly pointing towards guilt of the accused and must be conclusive in nature;

3. The circumstances, if 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

4. 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 but should be inconsistent with his innocence. In other words, the circumstances should exclude every possible hypothesis except the one to be proved.”



47. There cannot be any dispute to the fact that the case on hand is one of the circumstantial evidence as there was no eye witness of the occurrence. It is settled principle of law that an accused can be punished if he is found guilty even in cases of circumstantial evidence provided, the prosecution is able to prove beyond reasonable doubt the complete chain of events and circumstances which definitely points towards the involvement and guilty of the suspect or accused, as the case may be. The accused will not be entitled to acquittal merely because there is no eye witness in the case. It is also equally true that an accused can be convicted on the basis of circumstantial evidence subject to satisfaction of the expected principles in that regard.”

(Emphasis supplied)

In the recent judgment of **‘Karakattu Muhammed Basheer versus The State of Kerala 2024(10) SCC 813’**, the Hon’ble Supreme Court in the context of circumstantial evidence has held as under:-

11. Thereafter, the above principles have been reiterated in the subsequent judgments of this Court and hold the field till date. Thus, these basic established principles can be summarized in the following terms that the chain of events needs to be so established that the court has no option but to come to one and only one conclusion i.e. the guilt of the accused person. If an iota of doubt creeps in at any stage in the sequence of events, the benefit thereof should flow to the accused. Mere suspicion alone, irrespective of the fact that it is very strong, cannot be a substitute for a proof. The chain of circumstances must be so complete that they lead to only one conclusion that is the guilt of the accused. Even in the case of a conviction where in an appeal the chain of evidence is found to be



not complete or the courts could reach to any another hypothesis other than the guilt of the accused, the accused person must be given the benefit of doubt which obviously would lead to his acquittal. Meaning thereby, when there is a missing link, a finding of guilt cannot be recorded. In other words, the onus on the prosecution is to produce such evidence which conclusively establishes the truth and the only truth with regard to guilt of an accused for the charges framed against him or her, and such evidence should establish a chain of events so complete as to not leave any reasonable ground for the conclusion consistent with the innocence of accused.

The Hon'ble Supreme Court in the case of **Anjlus Dungdung Versus State of Jharkhand, 2006(4) RCR (Criminal)** has held that suspicion howsoever strong cannot take the place of proof. The relevant para is as under:-

“12. Thus, from the aforesaid discussion, it would be clear that out of the five circumstances, the prosecution has failed to prove the recovery of bloodstained balwa and tangi upon the disclosure statement of accused Rajesh Yadav @ Raju Gowala by credible evidence. The circumstance that the appellant came to his village from Punjab four to five days before the date of the alleged occurrence and was seen by PW18 in village Simdega cannot be said to be an unnatural conduct on the part of the appellant, as such the same cannot be taken as a circumstance against him. Recovery of one torch cell and knife from the pocket of appellant after the date of alleged occurrence cannot be used as a circumstance against him, especially when neither there is any case nor evidence that the knife recovered was stained with blood. The other circumstances which remain are motive and letter written by the appellant giving false information to his brother that he was dead. These two circumstances raise strong suspicion



against the appellant, but it is well settled that suspicion howsoever strong it may be cannot take the place of proof. In any view of the matter, on the basis of these circumstances, it is not possible to draw an irresistible conclusion which is incompatible with innocence of the appellant so as to complete the chain. It is well settled that in a case of circumstantial evidence, the chain of circumstances must be complete and in case there is any missing link therein, the same cannot form the basis of conviction. For the foregoing reasons, we are of the opinion that prosecution has failed to prove its case beyond reasonable doubt against all the accused persons, much less the appellant.”

(Emphasis supplied)

17. In the instant case, the FIR came to be registered at the instance of complainant-Mohinder Kaur/PW-5. She last saw the deceased in Amritsar on 16.02.2000. Despite the said fact, she first lodged a complaint about her daughter being missing only on 11.08.2000 and the FIR came to be registered on 13.09.2000. This delay of 06 months in filing the complaint regarding the missing of her daughter-Kirandeep Kaur is fatal to the prosecution case. The explanation that the police did not take action is not substantiated from any document which would show that she had approached the police before 11.08.2000.

18. As regards PW-3/Baljit Singh and PW-4/Gurinder Singh, they are the cousins of the deceased. PW-3/Baljit Singh is stated to have ‘last seen’ the deceased on 25.02.2000 at the Petrol Pump of the accused-Ajit Singh at Harike with other accused. Similarly, PW-4/Gurinder Singh is stated to have ‘last seen’ the deceased at the house of Ajit Singh at Harike on



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25.02.2000. None of these witnesses made any attempt whatsoever to lodge a complaint with the police earlier but have simply stated that, though, they had approached the police, no action had been taken by them. Interestingly, their statements during the course of investigation under Section 161 Cr.P.C. were recorded only on 14.01.2002 and 13.12.2001 respectively i.e. much after the registration of the FIR on 13.09.2000. This delay in recording the statements of these witnesses shows that they are planted witnesses being the first cousins of the deceased.

19. We may also add here that the body of Kirandeep Kaur was never recovered. Though, conviction of the offence of murder does not necessarily depend upon the *corpus delicti* being found, in the instant case, there is scant evidence as to when Kirandeep Kaur went missing.

20. In view of the aforesaid discussion, it is quite apparent that the evidence on record cannot be said to be of such a nature so as to conclusively point towards the guilt of the accused.

21. Therefore, we find considerable merit in the present appeal. The same is accepted. The impugned judgment dated 30.04.2004 passed by the Additional Sessions Judge (Adhoc), Amritsar is set aside. The accused-appellant No.2/Gurcharan Singh is acquitted of the charges framed against him.

22. **CRR-1181-2005 (O & M)**

In view of the order passed in CRA-D-496-2004, the present



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revision petition challenging the acquittal of the accused-respondents, namely, Jasbir Kaur and Gian Kaur, is dismissed.

23. The pending applications, if any, shall stands disposed of accordingly.

(GURVINDER SINGH GILL)
JUDGE

15.07.2025
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

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