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

Date of Reserve: 27.10.2025

Date of Decision: 28.10.2025

(I) CRA-D-516-DB-2004

Bansi Lal

...Appellant

Vs.

State of Haryana

...Respondent

(II) CRR-1271-2004

Nand Lal

...Petitioner

Vs.

Nihal Singh and Ors.

...Respondents

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

Present: Mr. Gunjan Mehta, Advocate
for the appellant in CRA-D-516-DB-2004.

Mr. Rahul Vats, Advocate
for the petitioner in CRR-1271-2004 and
for the complainant in CRA-D-516-DB-2004.

Mr. Rajinder Kumar Banku, Sr.DAG,Haryana with
Mr. Rajiv Sidhu, Sr. DAG, Haryana.

N.S.Shekhawat J.

1. By way of this common judgment, this Court shall dispose of two petitions i.e. CRA-D-516-DB-2004 titled as "**Bansi Lal Vs. State of Haryana**" and CRR-1271-2004 titled as "**Nand Lal Vs. Nihal Singh and Ors.**", as both the petitions arise out of the common impugned of conviction and order of sentence dated 30.04.2024 passed by the Court of Additional Sessions judge,



Fatehabad.

2. Bansi Lal, appellant in criminal appeal No. CRA-D-516-DB-2004 has prayed for setting aside the impugned judgment of conviction and order of sentence dated 30.04.2004 and to acquit him of the charge, whereas, Nand Lal, victim/complainant in criminal revision No.CRR-1271-2004 has prayed for enhancement of sentence imposed on Bansi Lal and to grant him compensation, being the legal representative of the deceased.

3. The prosecution story, as it unfolded before the Trial Court, is that the FIR Ex.P-9 in the present case was registered on the statement (Ex.P-7) made by Bhagirath son of Amar Singh and the english translation of the statement of the complainant has been reproduced below:-

Statement of Bhagirath son of Amar Singh, caste Bishnoi, aged 50 years, resident of village Bukarkey, P.S Nohar, District Hanumangarh (Rajasthan).

“Stated that I am the resident of above noted address and carry on auricultural persuits .The marriage of my niece Bimla had been performed with Mohar singh son of Khiyali Ram, Bishnoi, resident of Dhani Dhangar, about 14 years ago. From this alliance, a son named Nand Lal was blessed to them, some ten years ago. After about one month of the birth of son, our son-in-law Mohar Singh left the house, for good and till today no clue has been detected, it is not known where he is living whether he is alive or dead. My niece Bimla used to live alongwith her son, after constructing a Dhani (Farm House) in the field. Mohar Singh and his elder brother Nihal singh, live in village Rawat Kheera; both of them hold their ancestral lands, at village Rawat Khera. After departure of Mohar Singh, Bimla used to claim land measuring about 14 Kanals, situated at village Rawat Khera, which comes to her share, she used to demand this land from Nihal Singh. Nihal Singh is in



possession over this land and he did not hand-over/deliver this land to Bimla Devi. My niece used to doubt that her husband Mohar Singh had been eloped away (by way of kidnapping or screening away or by way of murdering him) by Pirthi son of Boga Ram, caste Bishnoi, who lives in Rajasthan. On this count, Pirthi also used to nurse grudge against Bimla and he (Pirthi) had given a threat to Bimla, to deal with her on that count.

Today in the morning around 07:00/8:00 AM I received a telephonic message that somebody has murdered by niece Bimla, by firing bullet-shots. Upon this on reaching this place I made enquiry from Nand Lal, son of my niece Bimla. When Nand Lal told me that my mother Bimla while she was struggling for life and was on her last breath and was in a state of agony. He informed me that she had been fired bullet shots by Pirthi and Nihal Singh, one bullet shot hit her, while one bullet shot passed by her side. I am also confident that with intent to grab the land of village Rawat Khera. Nihal Singh and Pirthi, while in collusion with each other, they have murdered by niece Bimla, by firing her with bullet shots. Legal action may be taken against both of them. Due to long journey, I have just reached now, I was late in reaching here, Now I have got my statement recorded with you, which I have heard and the same is correct. This occurrence took place today in the morning at about 08:15 A.M. L.T.I Bhagirath, Attested Sd/- Vijay Singh, Inspector SI/SHO P.S Sadar, Fatehabad”

4. After the registration of the FIR, the spot of the crime was inspected by the crime van. Kailash, photographer was called at the spot and he had taken the photographs of the dead body from different angles. The team of scene of crime also inspected the spot. Even the spot was examined by Inspector Vijay Kumar, who also prepared the rough site plan and the inquest



report. The recovery of various incriminating articles were effected from the spot. The dead body was sent to the Civil Hospital Fatehabad, where, Dr. Om Parkash, Medical Officer PW-8 conducted the post mortem examination on the dead body of Bimla and opined that the cause of death in the present case was shock and hemorrhage, as a result of injuries which were ante mortem in nature and were sufficient to cause death in ordinary course of nature and also prepared the post mortem report Ex.P13. On 27.10.2001, the police arrested both the accused namely Nihal Singh and Bansilal and were interrogated. On interrogation, Nihal Singh made a disclosure statement Ex. P-50, disclosing the fact that he had concealed the pistol, two live cartridges and one Yamaha motor cycle in the house of Amar Singh. Ultimately, the said statement led to recovery of one pistol, two live cartridges and one motorcycle. After usual formalities, the three articles were taken into possession by the police. The parcels containing Khes, *danda*, clothes of the deceased, blood stained earth, pistol and cartridges were sent to FSL, Madhuban for analysis and the report of FSL Ex.P58 and Ex.P59 were received, during the trial.

5. After completion of investigation, Bansilal (appellant in CRA-D-516-DB-2004) and his co-accused Nihal Singh (since deceased) were challaned by the police and the challan was presented before the Court of Area Magistrate. Since, the case was triable exclusively by the Court of Sessions, the Area Magistrate committed the case to the Court of Sessions Judge.

6. After considering the challan and documents accompanying it, the Trial Court held that a prima facie case under Sections 302,34 of IPC and Section 25 of the Arms Act was made out against Nihal Singh, accused,



whereas, a prima facie case under Sections 460,302 of IPC was made out against Bansilal (appellant in CRA-D-516-DB-2004) and they were charge-sheeted accordingly. However, Bansilal, appellant and Nihal Singh pleaded their false implication and claimed to be tried by the Trial Court.

7. In order to prove the case, the prosecution had examined 15 witnesses in all. Ramphal, Reader to District Magistrate, Fatehabad was examined as PW-1, who proved Ex. P1 i.e the sanction order under Section 25 of the Evidence Act against Nihal Singh. PW-2 EHC Ram Sarup had brought the parcel containing the belongings of the deceased from hospital and the same was handed over to the I.O, which were taken into possession vide the recovery memo Ex.P2. PW-3 Narender Singh, Patwari proved certain revenue record as Ex.P3 to Ex.P5. Still further, PW-4 Balwant Singh Draftsman had prepared the scaled site plan Ex.P6 with correct marginal notes. PW-5 Om Parkash HC had registered the FIR Ex.P9 in the police station and proved his endorsement Ex.P10 on the original writing.

8. The prosecution further examined Nand Lal son of Mohar Singh, son of the deceased as PW-6. He stated that his father had died before he gained the senses. On the night intervening 22/23.10.2001, he and his mother Bimla were sleeping on the first floor of their house and an electric bulb was on. At about 03:30 AM, he had heard fire shot and got up and found his mother lying on the ground. Bansilal, accused was running from the spot and was having a pistol. His mother was bleeding. When Bansilal was running, he switched on the torch and saw that Nihal Singh, accused was standing on the ground floor near their house and he had seen Bansilal and Nihal Singh running together



towards the school in the street. Both of them boarded a motorcycle and went towards the G.T road. While, he was taking care of his mother, she told him that Bansilal had fired a shot at her and Nihal Singh was standing on the ground floor. His mother had been murdered in order to grab their land. In his cross-examination, he stated that Nihal Singh, accused used to reside in Village Ravat Khera. Bansilal was having a dispute with his mother from the last one month, however, he used to work in the field, but did not visit their house during the period of one month. Even, Bansilal was unmarried and had paid the *batai* of the last crop. The prosecution further examined PW-7 Het Ram, who stated that his two nieces namely Urmila and Maya were married at village Dhangar and he usually used to come to Village Dhangar to meet them. At about 03:30 AM on 23.10.2001, he had gone towards the *Dhani* to ease himself. When he reached near the wall of the school, he saw that Bansilal and Nihal Singh were riding on a motor cycle and were going towards GT road on a fast speed. He stated that his nieces were married at Village Dhangar for about 5/6 years and he had come to see them. The prosecution further examined PW-8 Dr. Om Parkash, Medical Officer, who had medico-legally examined Smt. Bimla on 24.10.2001. She had died at about 04:15 PM on 23.10.2001 and after the death, he found the following injuries on the dead body of Smt. Bimla Devi:-

“Wound of entry of size 1.1 x 1.1 cms, circular in shape present in left postero-axillary fold at the level of left nipple, margins of wound were tattooed and blackened. Margins inverted. Blood clots coming from wound. On dissection and probing the underlying tissues are crushed entering into left thoracic cavity in 5th left inter-postal leading to fracture of 6th rib and injury to the



left lung with haemothorax and further tearing the left mediastum tissues. Blood vessels in the way and coming out the thoracic cavity leading to fracture of 1st rib and with the adjacent part of left sternum manubri and finally bearing exit wound in the anterior aspect of chest of size 3.8 x 3.6 cm in the left upper chest. Margins everted with clots present over the margins and surrounding area. Corresponding hole of size 1 x 1 cm present on the jumper at the wound of entry and adjacent part of jumper was smeared with blood."

He further opined that the cause of death in this case was shock and hemorrhage as a result of the injuries described above, which were ante mortem in nature and was sufficient to cause death in the ordinary course of nature. The prosecution further examined PW-9 Constable Baldev Singh, PW-10 Constable Prem Singh and PW-11 Constable Shree Ram, whose testimonies are formal in nature. The prosecution further examined Constable Kailash Chander as PW-12, who had taken nine photographs of the dead body of Bimla from different angles. Further, the prosecution examined PW-13, SI/SHO Guria Ram, who remained associated with Vijay Kumar SI/SHO, during the process of investigation. On 27.10.2001, the investigation was entrusted to him and he had arrested both the accused in the present case. Even on the disclosure statement of Nihal Singh, a pistol along with two live cartridges and a motor cycle were recovered by the police. The prosecution further examined PW-14 ASI Rajinder Singh, who was a witness of recovery from Nihal Singh. The prosecution further produced Inspector/SHO Vijay Kumar as PW-15, who had conducted the initial investigation at the spot.

9. After the evidence of the prosecution concluded, the entire evidence was put to the two accused in the present case and they pleaded their



false implication. The defence was raised that they have been falsely involved at the instance of Prithvi Singh.

10. After the recording of statement under Section 313 Cr.P.C, the accused examined Raja Ram, Clerk in the office of Deputy Commissioner, Fatehabad as DW-1 and proved the copy of the statement of Bimla as Ex.D1. Ram Narain was examined as DW-2, who stated that Bansilal, accused was a tailor by profession and he had never been an agriculturist. He used to work with Ram Kumar tailor at Bighar Road, Fatehabad. He knew Prithvi son of Boga Ram and both Bansilal and Prithvi were from different families. However, the names of their father were common. Similarly, DW-3, Ram Kumar, tailor also deposed that Bansilal, accused had been working with his shop since the year 2001.

CRA-D-516-DB-2004

1. Learned counsel for the appellant vehemently argued that in the present case, the occurrence had taken place at 03:30 AM on 23.10.2001 and even the police was informed immediately. Still, the FIR was lodged at about 04:30 P.M on 23.10.2001 and the said time was utilized by the complainant in coining a false story against Bansilal and his co-accused. It was further submitted that Bansilal, was not initially named in the FIR and one person namely Prithvi son of Boga Ram was shown as an accused along with Nihal Singh. However, during the course of trial, all the witnesses had wrongly named Bansilal as one of the assailant in the present case. In fact, the father's name of Prithvi Singh and Bansilal was Boga Ram and due to some previous enmity, he has been falsely involved in the present case. Still further, the prosecution



had wrongly placed reliance on the testimonies of PW-6 Nand Lal and PW-7 Het Ram. PW-6 Nand Lal was a child witness, who was son of the deceased and had been tutored to depose against the present appellant. No doubt, the Courts can record the judgment of conviction on the solitary testimony of a child witness, but in the present case, the child witness was son of the deceased and his testimony had been influenced by the elders of the family. Apart from that, PW-7 Het Ram was a resident of Rajasthan and had no reasons to go towards the school of the village Dhangar. Even, he had never seen the accused committing the crime. Still further, Het Ram was a resident of different place and his testimony was liable to be disbelieved by this Court. Apart from that, even the presence of PW-6 Nand Lal and PW-7 Het Ram were unreliable and were liable to be discarded by this Court. Apart from that, there was considerable delay in sending the case property to FSL and the entire prosecution case was false and fabricated.

2. On the other hand learned State counsel assisted by learned counsel for the complainant had vehemently opposed the submissions made by learned counsel for the appellant on the ground that PW-6 Nand Lal and PW-7 Het Ram were the most material witnesses of the prosecution, who had assigned specific roles to Bansi Lal as well as Nihal Singh. PW-6 Nand Lal is son of Bimla (since deceased) and is a small child. Thus, his presence at the place of occurrence was quite natural. Apart from that, the capacity of the child witness to depose before the Trial Court has been seen by the Trial Court and he was found to be a competent and reliable witness of the Court. Even his demeanour has been noticed by the Court, while he was deposing as a witness, during the trial. Still



further, two nieces of PW-7 Het Ram were married in village Dhangar and he was not a stranger at the place of occurrence. It is a matter of common knowledge that people in villages gone to the fields in wee hours to ease themselves and he had only seen both the accused fleeing from the place of occurrence on a motorcycle. Even, the testimonies of two witnesses were duly corroborated by the statements of PW-8 Dr. Om Parkash, PW-13 Guria Ram SI/SHO and PW-15 Vijay Kumar, Inspector. Bimla, since deceased had died because of the fire arm injuries, which were attributed to the present appellant. Still further, even a pistol and two live cartridges were recovered from Nihal Singh and from the FSL reports, it amply stood establish that the weapon recovered from Nihal Singh was used in the commission of crime in the present case. Thus, the impugned judgment is liable to be upheld by this Court.

3. Learned counsel for the complainant further prayed that the sentence imposed on the appellant- Bansi Lal may be ordered to be enhanced and the case fall within the category of “rarest of rare cases” to attract the capital punishment. Thus, the sentence imposed on Bansi Lal is liable to be enhanced by this Court. Apart from that, the appellant may be further ordered to pay some compensation to Nand Lal as he had lost his mother at a very young age.

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

5. In the present case, initially Bansi Lal and Nihal Singh were tried by the Trial Court, however, later on Nihal Singh had expired and the appeal has been filed by Bansi Lal accused only. Learned counsel for the appellant has



raised an argument that the the occurrence had taken place at about 03:30 AM on the night intervening 22/23.10.2001, whereas, the FIR was lodged at 04:30 PM on 23.10.2001 and there is an apprehension of introduction a coloured version by the prosecution witnesses. However, this Court does not find any force in the submissions made by learned counsel for the appellant. In the present case, even though the occurrence had taken place at about 03:30 AM, but the police reached at the place of occurrence after the complainant Bhagirath arrived at the spot. In fact, Bhagirath was resident of Rajasthan and was called at the spot to report the matter to the police. Still further, it can never be said that there was any inordinate delay in lodging the FIR and it is a usual practice to call the relatives of the deceased and then to report the matter to the police. In the present case also, Bhagirath reached at the spot after getting the information about the occurrence and his statement was recorded at about 03:15 PM and thereafter, he accompanied the police officials and other relatives and the proceedings were conducted at the spot. Even otherwise, the delay in lodging the FIR stood properly explained by the prosecution, during the course of trial.

6. Learned counsel for the appellant has assailed the testimony of PW-6 Nand Lal and submitted that he was a child witness and his testimony was influenced by the elders in the family. Still further, even though the name of Bansi Lal was not mentioned in the FIR, but the same was introduced by PW-6 Nand Lal in his statement. The prosecution had initially named Nihal Singh and Pirthvi son of Boga Ram as the accused in the present case. However, later on, Bansi Lal was an accused in the present case as his father's name was also Boga Ram. Even otherwise, there was sufficient evidence to



show that Bansi Lal had no concern with the agricultural land and there was no motive on his part to commit the crime. So, the conviction on the basis of the fabricated and sheltered statement of PW-6 Nand Lal was apparently unsustainable.

7. We have considered the above submissions made by learned counsel for the appellant and do not agree with the submissions. In fact, before examining PW-6 Nand Lal, a child witness, the Trial Court had interviewed with him and checked his competence to depose as a witness. Several questions were put by the Trial Court to him and after findings his answers to be truthful and rational, he was allowed to appear as a witness before the Trial Court. Apart from that, he was a minor son of Bimla, since deceased and his presence at the place of occurrence was quite natural.

8. Still further, the Evidence Act does not prescribe any particular age as a determinative factor to brief such a witness as a competent witness. Section 118 of the Evidence Act provides that all the persons shall be competent to testify, unless the Court considers that there are prevented from understanding the questions put to them or from giving rationale answeres to these questions, because of tender years, extreme old age, disease- whether of mind or any other cause of the same kind. If it is found that a child is mature enough to understand questions and is able to answer rationally, he can always be allowed to a witness in a trial. In **Dattu Ramrao Sakhre Vs. State of Maharashtra, 1997(3) RCR (Criminal) 227**, the Hon'ble Supreme Court held as follows:-

"A child witness if found competent to depose to the facts and reliable one such evidence could be the basis of conviction. In other words even in the absence of oath the evidence



of a child witness can be considered under Section 118 of the Evidence Act provided that such witness is able to understand the questions and able to give rational answers thereof. The evidence of a child witness and credibility thereof would depend upon the circumstances of each case. The only precaution which the court should bear in mind while assessing the evidence of a child witness is that the witness must be a reliable one and his/her demeanour must be like any other competent witness and there is no likelihood of being tutored."

9. We have also perused the testimony of PW-6 Nand Lal carefully and from his cross-examination, it is apparent that his testimony could not be shattered in any manner. Even, the defence could not show any material to prove that he was not present at the place of occurrence and rather being the inmate of the house, he was most natural witness to depose in the present case. Further, from his testimony it is apparent that he had specifically stated that Bansilal was carrying a pistol in his hand and had fired at his mother. He had duly identified Bansilal at the place of occurrence as well as in the Court, while appearing as a witness. He also stated that Bansilal was having a dispute with his mother for the last one month. He used to work in the fields but he did not visit their house from the last one month. Further, the pistol used by Bansilal in the occurrence was recovered from Nihal Singh, co-accused and as per the FSL report Ex.P-58, the countrymade pistol recovered from Nihal Singh was used in the commission of crime.

10. Still further, it is also apparent from the evidence that from the very beginning, Bansilal son of Boga Ram, appellant was mentioned as Prithvi Singh son of Boga Ram in the FIR itself. Still further, PW-6 Nand Lal and PW-



7 Het Ram had specifically named Bansilal, appellant as the main assailant. A futile attempt was made by the defence to show that Prithvi son of Boga Ram and Bansilal son of Boga Ram, appellant were two different persons by examining DW-2 Ram Narain. However, in cross-examination DW-2 Ram Narain clearly stated that he never made any statement to the police in the present case and he was neighbour of Bansilal. Even, he did not know as to whether Bansilal was running a shop of tailor on any name. Thus, Bansilal, appellant could not even lead any evidence to show that Bansilal and Prithvi Singh were two different persons. Rather, PW-6 Nand Lal and PW-7 Het Ram had specifically deposed with regard to the participation of Bansilal, appellant in the occurrence and both the witnesses had withstood the test of cross-examination. Even, Het Ram was a natural witness as he used to come to meet his nieces in the village Dhangar and Trial Court has carefully placed reliance on his testimony.

11. In the present case also, the Trial Court had examined PW-6 Nand Lal to take as to whether he was sufficiently intelligent and had understanding the matter and thereafter, his testimony was recorded by the Trial Court. Even, the Trial Court had closely observed the demeanour of such child witness, during his examination before the Trial Court and at one stage, the child had even fainted as his mother was brutally killed by Bansilal, accused/appellant in his presence. However, we have carefully perused the testimony of PW-6 Nand Lal and found that the Trial Court had correctly placed reliance on his deposition and we have no reasons to hold that the conclusions drawn by the Trial Court were erroneous in any manner.



12. Still further, we have carefully perused the judgment passed by the Trial Court and find that the Trial Court has recorded detailed findings on every aspect of the matter i.e. minor contradictions in the statements of various witnesses, delay in sending the case property to FSL and detailed findings have been recorded by the Trial Court in this regard. Even, it has been correctly held that even if there was some minor delay in sending the case property to FSL, it would not be affect prosecution as the victims of crime can never be made to suffer on account of any negligence or dereliction of duty on the part of the police officials. Apart from that, even it is apparent from the testimony of PW-8 Dr. Om Parkash that Bimla, since deceased had suffered a fire arm injury and in his opinion, the cause of her death was shock and hemorrhage, as a result of fire arm injury, which was ante mortem in nature and sufficient to cause death in ordinary course of nature. Apart from that, the prosecution had also examined PW-15 Vijay Kumar, Inspector, who had initially reached at the spot and conducted the initial investigation. Further, the prosecution had also placed reliance on the statement of PW-13 Guria Ram, SI/SHO, who proceeded with the investigation on 27.10.2001 onwards and arrested the accused in the present case. He had also effected the recoveries from Nihal Singh. Even all these witnesses were also cross-examined extensively by the learned defence counsel, but nothing material could be illicited from them, which could shetter the case of the prosecution in any manner.

13. As a consequence of above discussion, we find that the Trial Court has correctly appreciated the evidence in the light of the settled law and there is no illegality or impropriety in the impugned jugment, warranting interference



by this Court.

14. Consequently, appeal fails being devoid of merits and is ordered to be dismissed.

15. The appellant may be taken in custody forthwith, if not in custody, to serve the remaining sentence.

CRR-1271-2004

1. By filing the present revision petition Nand Lal victim has prayed for enhancement of sentence imposed on the Bansi Lal, accused and prayed that the punishment of imprisonment for life may be converted into death sentence. In fact, we have carefully perused the evidence as well as the facts in the present case and there are no circumstances, which may justify the awarding of extreme punishment of death sentence.

2. Thus, finding no merits, the present revision petition is also ordered to be dismissed.

3. Pending application, if any, stands disposed off, accordingly.

4. Case property, if any, be dealt with, and destroyed after the expiry of period of limitation for filing the appeal, in accordance with law.

5. The Trial Court record be sent back.

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

**(SUKHVINDER KAUR)
JUDGE**

28.10.2025

hitesh

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