



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-2104-SB-2004

Mohan Singh and Anr

...Appellants

VERSUS

State of Punjab

...Respondent

Reserved on : 02.09.2025

Pronounced on: 2.12.2025

Judgment uploaded on: 03.12.2025

*Whether only the operative part of the judgment is pronounced
or whether the full judgment is pronounced: Full Judgment*

CORAM: HON’BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Vipin Mahajan, Advocate
for the appellants.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J. (ORAL)

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1. Appellants have preferred the instant appeal challenging judgment of conviction and order of sentence dated 30.09.2004 passed by the learned Addl. Sessions Judge (Adhoc), Fast Track Court, Gurdaspur, whereby both of them were



convicted under Section 304 Part-II of IPC and sentenced to undergo RI for three years along with fine of Rs.500/- each, in default of payment of fine, they were to further undergo RI for one month each.

2. Relevant facts as emerging from documents on record be noticed hereinbelow:

As per prosecution, on 30.09.2002, SI Karam Singh (PW9) along with ASI Sansar Singh and few other police officials was on patrolling duty. When they reached towards village Berry, near Bus Stand Tugalwal, ASI Kulwinder Kumar along with few other police personnel met them, who were also joined in the police team. When they all reached focal point village Begi, they met Dhian Singh (PW3), son of Geetan Singh resident of village Noona, P.S Khanunwan, who got his statement (Ex.PF) recorded mentioning therein that they are four brothers with no sister. He is the youngest of all the siblings. Two of his brothers were undergoing imprisonment in the Central Jail, Gurdaspur who now stand acquitted of the charges levelled against them. His father owns 10 killas of agricultural land, out of which, he and the other siblings are owners of two kanals each. The remaining land is in the name of his father-Geetan Singh (since deceased). Out of this land, two and half killas had been mortgaged in the year 2000, by his father with one Mohan Singh (A1), for a period of five years. For irrigating the aforesaid land, 1/3rd share of water in the tubewell had been given to Mohan Singh who had sown paddy and sugarcane crop on this land. One day prior to the occurrence i.e on 29.09.2002, Mohan Singh (A1) had come to his 'Dera' and had asked his father Geetan Singh (since deceased) to start electric motor at low voltage with the help of "cells" but his father had refused. This refusal was not taken kindly by Mohan Singh (A1), who hurled abuses at his father. On the following day i.e on 30.09.2002, at about 11.30 am, he (complainant-PW3) and his sister-in-law Balwinder Kaur (PW4) were sitting in



their courtyard and his father Geetan Singh (since deceased) was going towards the fields, when Mohan Singh (A1) came out from his house and on the turn of the way leading to the fields, again told his father to start electric motor with the help of cells. His father (Sh. Geetan Singh) again advised Mohan Singh (A1) not to do so and told him that the motor could be run in full voltage at about 11.00 pm. Mohan Singh (A1) who was armed with the “handle” (hatha) of the Tokka again shouted at his father Geetan Singh (since deceased). Wife of Mohan Singh (A1) also had ‘cells’ with her. Before his father Geetan Singh (since deceased) could react, Mohan Singh (A1) and his wife Harjinder Kaur (A2) started hitting his father. Mohan Singh (A1) gave a ‘hatha’ blow to his father on his stomach, chest etc and Smt Harjinder Kaur (A2) started giving ‘cell’ blows to his father on his back, who resultantly fell down. Even thereafter, both the accused continued giving kick blows to his father aged about 65 years. Mohan Singh (A1) also hit his father on his private organs. He (complainant-PW3) and his sister-in-law Balwinder Kaur (PW4), who were witnessing the incident, rushed to the rescue of his father, who was breathing with difficulty. They also raised an alarm (‘Naa Maro, Naa Maro), on hearing which both the accused fled away from the place of occurrence, along with the “handle/hatha” of the Tokka leaving behind ‘cell’. Sh. Geetan Singh was made to lie on the cot. Some water was given to him but unfortunately, he succumbed to the injuries and died at the spot.

The contents of the statement (Ex.PF) were read-over and explained to the complainant, who thereafter appended his signatures as Ex.PF/1 on the said complaint. SI Karam Singh (PW9) made his endorsement vide Ex.PF/2, on the same and sent Constable Balwinder Singh for getting the FIR lodged. ASI Kulwantbir Singh (PW6) who on 30.09.2002 was posted at P.S Khanuwan recorded formal FIR (Ex.PF/3) and handed over the same to Constable Hansa



Singh (PW7) for delivering the special report to the Illaqa Magistrate and other senior officials.

Investigations were set into motion by SI Karam Singh (PW9), who immediately visited the place of occurrence and prepared rough site plan (Ex.PW9/A) of the site of incident, articles lying near the dead body were also taken into possession vide Ex.P9/B, inquest report vide Ex.PC was also prepared and statements of witnesses were recorded. Pavittar Singh Patwari (PW7/A), Circle Fattu Barkat District Gurdaspur prepared scaled site plan (Ex.PW7/A) at the instance of I.O Karam Singh.

On 01.10.2002, Doctor Sudhir Kumar (PW2), who at the said time was posted as MO, Civil Hospital, Gurdaspur received an application (Ex.PB) accompanied by inquest report (Ex.PC) from HC Angrej Singh (PW8) vide which request was made to get the post-mortem examination conducted of Sh. Geetan Singh. Needful was done after the dead body was identified by Jaspal Singh and Rattan Singh (PW5) and post mortem report (Ex.PE) was penned down, as per which, deceased died due to 'Myocardial infraction' which is sufficient to cause death in ordinary course of time. After the post mortem examination, parcel containing clothes (four in number) of the deceased handed over by the Doctor were taken into possession by HC Angrej Singh and were later handed over to SI Swaran Singh vide memo Ex.P8/A. Body was also handed over to the relatives for performing last rites. On 10.11.2002, on an application (Ex.PD), moved by SI Karam Singh, Dr. Sudhir Kumar vide Ex.PD/1 opined as follows:

The possibility of M.I (Myocardial infraction) being caused by the scuffle or the hidden injury (if any) is very remote

On 04.10.2002, Mohan Singh (A1) was arrested, who during interrogation suffered disclosure statement (Ex.PG) admitting to his involvement in the commission of the offence and got recovered 'Tokka' with the wooden



handle (hatha), from his fields, which was taken into possession vide Ex.PH, rough sketch of the same was prepared vide Ex.PJ, search memo of A1 was prepared vide Ex.PK. Family members were intimated about his arrest vide Ex.PL. From the documents on record, it can be inferred that Smt Harjinder Kaur (A2) was granted the concession of pre-arrest bail.

Sh. Subhash Chand (PW1)-Photographer, resident of village Bhaini Mian Khan visited the site and took photographs (EX.P1 to P.6), the negatives of which are Ex.P.7 to Ex.P.12 and handed over the same to SI Swaran Singh vide memo Ex.PA.

3. On culmination of investigation, challan complete in all respect was presented in the Court.

4. Copies of the challan, free of cost, was supplied to the accused. Offence under Sections 304 read with 34 IPC being exclusively triable by the court of Sessions, the case was committed to the court of Sessions by the learned Magistrate vide Commitment order dated 02.07.2003. Thereafter, on finding a prima facie case against both the accused, they were charge sheeted under Sections 304 IPC by the then learned Addl. Sessions Judge, Gurdaspur vide order dated 05.08.2003.

5. So as to prove their case, prosecution examined as many as nine witnesses. They can be categorised as follows:

* Complainant and related witnesses (Dhian Singh complainant-PW3, eye witness and son of the deceased) (ii) Balwinder Kaur (PW4) wife of Satnam Singh- eye witness and daughter in law of deceased.

* Formal witnesses: (i) Subhash Chander-PW1, Photographer (ii) (Rattan Singh-PW5 son of Puran Singh, Co-villager of complainant who had identified the body of the deceased) (iii) ASI Kulwantbir Singh-PW6, who had recorded FIR Ex.PF/3) (iv) Constable Hansa Singh-PW7, who had delivered the special report



to Illaqa Magistrate and senior police officials (v) Pavittar Singh Patwari PW7/A, who had prepared the scaled site plan.

* Witnesses related with the Investigation: (i) SI Karam Singh-PW9, the Investigating Officer of the case) (ii) HC Angrej Singh, PW8, who had requested the doctor for getting the post mortem examination conducted.

* Medical witnesses: (Dr.Sudhir Kumar-PW2,who while having remained posted as M.O Civil Hospital, Gurdaspur had prepared post-mortem report (Ex.PE) and had given his final opinion with regard to the cause of death.

* ASI Sansar Chand, ASI Kulwinder Kumar,Constable Karnail Singh were given up by learned PP)

Complainant and related witnesses:-

Sh. Dhian Singh, an eye witness to the incident, at whose behest, the criminal proceedings were initiated against both the accused stepped in the witness box as PW3. In his examination in chief, he elaborated upon the sequence of events leading to the incident in which his father Sh. Geetan Singh was assaulted by both the accused. According to him, his late father had mortgaged about two and half killas of agricultural land to Mohan Singh (A1), in 2000, for a period of five years. A day prior to the incident, Mohan Singh (A1) had told his father to let him run the electric motor with the "cell", on low voltage. Upon refusal of his father (late Geetan Singh), Mohan Singh (A1) lost his cool and hurled cheap abuses. On the day of the incident i.e 30.09.2002, his father was going towards their fields. He (PW3) and his sister-in-law Balwinder Kaur (PW4) were also present nearby. When his father had reached towards the turn of the way leading to the fields, Mohan Singh (A1) came out of his house and again told his father that he (Mohan Singh (A1) would be running the electric motor with the help of 'cell'. His father again advised Mohan Singh (A1) not to do so, rather told him that the motor could be run at full voltage, around 11.00 pm and that he



(Mohan Singh (A1) should wait till such time. However, (A1) without any provocation or exchange of hot words, hit his father on his stomach, chest etc with the “handle” ‘hatha’ of Toka. A2 also started giving ‘Cell’ blows to his father on his back. Even when his father fell down, A1 gave kick blows on the legs and private organs of his father. When they rushed to the rescue of his father, they noticed that the old man aged about 65 was breathing with difficulty, who after some time passed away. Both the accused fled away with the Toka, leaving the Cell behind. Police Authorities were intimated and on his complaint (Ex.PF) formal case came to be registered against both the accused. This witness also highlighted the various steps taken by the I.O in his presence, while investigating the case. During cross examination, he admitted that the police visited the spot after two hours of the incident. Apart from him, his sister-in-law, various co-villagers had also gathered at the site. The entire incident was narrated at the spot to the police Authorities, who recorded his statement as also that of his sister-in-law Balwinder Kaur at that point. He denied that his statement was recorded at focal point on the same day. Further according to this witness, in the incident, his father received serious injuries. When both the accused were arrested, they were shown to them. Towards the end, he denied deposing falsely.

Smt Balwinder Kaur, wife of Satnam Singh and daughter in law of deceased Geetan Singh, stepped in the witness box as PW4. In her examination in chief, she also deposed on the same lines as PW3. During cross examination, she was not able to remember as to whether the police had arrived at the site, though clarified that her statement was recorded after about one hour of the incident. She also admitted that the motor cells and the bloodstained earth were collected by the I.O from the site on the day of the incident. She reiterated that her father-in-law had suffered several injuries on his back, stomach, front side of the body and on his private organs. She denied deposing falsely.

**Formal witnesses:**

Sh. Subhash Chand-Photographer, resident of village Bhaini Mian Khan while appearing as PW1 deposed that he had visited the site and had taken photographs (EX.P1 to P.6), the negatives of which are Ex.P.7 to Ex.P.12 and had later handed over the same to SI Swaran Singh vide memo Ex.PA.

Rattan Singh son of Puran Singh, Co-villager of complainant, stepped in the witness box as PW5 and deposed that he along with Jaspal Singh son of Geetan Singh had identified the body of the deceased. Their statements were recorded by the police.

ASI Kulwantbir Singh, who had recorded FIR Ex.PF/3, was examined as PW6.

Constable Hansa Singh, who had delivered the special report to Illaqa Magistrate and senior police officials, appeared as PW7.

Pavittar Singh Patwari, who had prepared the scaled site plan (Ex.PW7/A) of the place of incident, at the instance of I.O., was examined as PW7/A.

Investigation related witnesses:

SI Karam Singh, the Investigating Officer of the case appeared as PW9 and elaborated upon the various steps undertaken by him in the present case, beginning from recording statement (Ex.PF) of the complainant, getting the formal FIR (Ex.PF/3) registered, visiting the site of the incident, preparing rough site plan (Ex.P9/A), recording statements of witnesses, taking into possession the articles lying near the dead body, getting clicked photographs of the dead body lying at site from PW1-Subhash Chander, conducting inquest proceedings Ex.PC, getting the post mortem examination conducted, arresting A1, recording his disclosure statement (Ex.PG), taking into possession the "Toka" with the wooden handle recovered at the instance of A1 vide recovery memo Ex.PH, recording the



statements of witnesses at the various stages of investigation. During cross examination, this witness admitted that no independent person was joined as witness to the proceedings when A1 was arrested. According to him, complainant, the son of the deceased met the police party near Chak Sharif. Police team reached the fields of accused at about 3.00 pm. He denied that no recovery was effected at the instance of the accused. Though he admitted that the site plan relating to the place of recovery bears the signatures of SI Swaran Singh. Towards the end, he denied deposing falsely.

HC Angrej Singh, No.572 who at the relevant time was posted at Police Post Tugalwal, PS Kahanuwan, appeared as PW8 and deposed that vide Ex.PB he had requested SMO, Civil Hospital, Gurdaspur to get the post-mortem examination conducted on the body of Sh. Geetan Singh (since deceased). After the needful was done by the Doctor, parcel containing clothes of the deceased were taken into possession by him, which were later handed over to SI Swaran Singh vide Ex.P8/A.

Medical Evidence

Dr. Sudhir Kumar, who on 01.10.2002, was posted as M.O Civil Hospital, Gurdaspur appeared in the witness box as PW2 and deposed that on the said day, dead body was brought by HC Angrej Singh, who requested for post-mortem examination. It was identified by Jaspal Singh and Rattan Singh. After detailed investigation, he prepared post-mortem report (Ex.PE). Cause of death according to him was 'Myocardial infraction' which is sufficient to cause death in ordinary course of time. After the post mortem examination, parcel containing clothes (four in number) of the deceased handed over by him to HC Angrej Singh. On 10.11.2002, on an application (Ex.PD), moved by SI Karam Singh, he vide Ex.PD/1 opined as follows:



“The possibility of M.I (Myocardial infraction) being caused by the scuffle or the hidden injury (if any) is very remote.”

6. Entire incriminating evidence was put to both the accused, in question-answer form, who in their statements under Section 313 Cr.P.C denied the allegations levelled against them and pleaded their false implication. However, they chose not to lead any evidence.

In terms of impugned judgment dated 30.09.2004, both the accused namely Mohan Singh (A1) son of Pritam Singh and Harjinder Kaur(A2) wife of Mohan Singh both residents of village Noona, P.S Khanuwan, Tehsil and District Gurdaspur were convicted for commission of offence punishable under Section 304 (II) IPC and were sentenced to undergo Rigorous Imprisonment for three years along with fine of Rs.500/- each. In case of non-deposit of fine, both the accused were sentenced to further undergo R.I for one month.

7. Aggrieved of the aforesaid judgment of conviction and order of sentence, both the convicts filed the present appeal.

8. Questions, which need adjudication are as follows:

i) *Whether the incident as alleged by the prosecution occurred at the relevant time and day?*

ii) *If answer to the first question is in the affirmative, whether deceased Geetan Singh suffered any injury in the said incident and died consequent thereto?*

9. Learned counsel for the appellants submitted that the learned Addl. Sessions Judge, (Adhoc), Fast Track Court, Gurdaspur erred in convicting both the appellants under Section 304 Part II IPC. The evidence adduced on the case file was not appreciated by the learned trial Judge in correct perspective. No such incident as alleged by prosecution ever occurred. Late Geetan Singh, who had mortgaged a piece of land to A1 was not allowing A1 to run the tubewell so that he could water the fields. Repeated requests had been made to Geetan Singh but



to no avail. Continuing further, learned counsel contended that the complainant party, who are habitual offenders having no respect for the law of the land (two sons of deceased were in custody at the relevant time when alleged incident occurred) were offended with these requests and were on the look-out of an opportunity to level scores with the appellants, when by twisting material facts, an entirely different color was given to the story. Both PW3 and PW4, the son and daughter-in-law respectively of late Dhian Singh levelled absolutely frivolous allegations against the appellants. Continuing further, learned counsel contended that in any case, no reliance deserves to be placed on the testimony of the two alleged eye-witnesses, who being 'related' to the deceased, were expected to support the case of the prosecution. Material contradictions in the statements of both the alleged eye-witnesses namely PW3-Dhian Singh and PW4-Balwinder Kaur, as regards when the police visited the site, as also when and where their (PW3 and PW4) statements were recorded, were not taken note of. Further, the alleged incident did not occur at the secluded place, however, for reasons best known, no efforts were made by the IO to join any independent person as a "witness" to the case proceedings, whose deposition would have gone a long way in ascertaining as to whether the incident occurred in the manner as alleged by the prosecution. Further, as per learned counsel, the fact that the medical evidence being in total variance to the stand of the two alleged eye witnesses, further demolishes the case of the prosecution. In this context, learned counsel next submitted that as per PW3 and PW4, both the appellants unleashed an attack on late Geetan Singh. A1, who was armed with the "handle" of the 'toka' hit Geetan Singh with the same on his (Geetan Singh) abdomen and chest whereas A2 who had 'cells' in her possession hit Geetan Singh with the same on his back etc. It is further the case of the prosecution that even when Geetan Singh fell down, A1 and A2 continued with their assault. A1 gave repeated kick blows to Geetan Singh on



his stomach and private parts. Thus, as per both these witnesses, late Geetan Singh was brutally assaulted by A1 and A2, both of whom inflicted multiple injuries on him. PW3 and PW4 also took a stand that they were witnessing the incident from a little distance and that they immediately rushed to the rescue of their father, who was breathing with great difficulty and further according to them, unfortunately, the old man died at the spot itself. At this stage, learned counsel drew the attention of the Court to the Post-Mortem report (Ex.PE) penned down by Dr. Sudhir Kumar-PW2, who at the relevant time was posted as M.O, Civil Hospital, Gurdaspur. In the said report, Dr. Sudhir Kumar specifically pointed out that no external injuries were noticed on the body of the deceased. Similar was his opinion while describing the condition of the internal organs, except when on dissection of the Heart, he opined as follows:

“the polar of the ventericle the left coronary artery has thrombus in it.”

While mentioning the cause of death, Dr. Sudhir Kumar was of the opinion that the deceased was suffering from Cardiac ailments and died as a consequence therefrom. The post-mortem report (Ex.PE) and opinion (Ex.PD/1) of the Doctor with regard to the cause of death of late Geetan Singh completely demolishes the case of the prosecution that both the appellants i.e A1 & A2, who were armed with the “handle” of the Toka and “cell” respectively, had inflicted multiple injuries on the person of the deceased, who died as a consequence thereto.

Learned counsel next contended that during the course of investigation, I.O. vide Ex.PD sought an opinion as to whether the deceased had suffered a Heart attack on account of injuries suffered by him, to which Dr. Sudhir Kumar specifically opined vide Ex.PD/1 that the possibility of “Myocardial Infraction” being caused by scuffle or hidden injury is very remote.



Learned counsel summed up his contentions by urging that the post-mortem report clearly indicates that the Heart of the deceased was weak, he was suffering from cardiac ailments, but no evidence worth its name was led by the prosecution, from where an inference could be drawn that both the appellants were aware/had knowledge about the Heart ailment of late Geetan Singh and/or that they knowingly inflicted injuries on him. Thus, the “knowledge” so referred to in Section 304 Part II IPC cannot be attributed to them. On the basis of the above submission, it was prayed that the charges levelled against the appellants remain unproved, who be accordingly acquitted of the same and appeal be accepted.

10. *Per contra*, learned State counsel while opposing the request of learned counsel for the appellants submitted that the trust inspiring statements of both the eye-witnesses namely Dhian Singh (PW3) and Balwinder Kaur (PW4) when read carefully bring out the sequence of events leading to the assault on late Geetan Singh, by both the accused/appellants. It emerges from their testimony that A1 who was armed with a “handle” (hatha) of the Toka hit Geetan Singh with the same on his stomach and chest etc, whereas A2 who was armed with “Cell” also inflicted injuries with the same to Geetan Singh. Learned State counsel further contended that simply because the two eye-witnesses are “related” to deceased cannot be a ground in itself to view their testimony with suspicion, more so when accused failed to point out any ulterior motive on the part of the complainant party to falsely implicate them in the incident. Moreover, both the eye witnesses withstood the test of rigorous cross examination. Learned State counsel next submitted that every assault would not have left a mark on the body of the deceased, especially when the maximum blows were directed on his chest and private organs, who being an old person could not withstand the attack, gasped for breath and finally breathed his last at the site itself.



The entire evidence, further as per learned State counsel when minutely appreciated in totality, leads to only one conclusion that on the relevant time, day and place, the incident occurred as portrayed by prosecution and deceased died due to multiple injuries inflicted upon him by both the appellants.

Learned State counsel summed up his submissions by urging that the learned trial Judge on carefully analysing the entire evidence adduced on the case file by prosecution, rightly convicted both the appellants under Section 304 Part-II IPC. Impugned judgment dated 30.09.2004 being well reasoned and detailed one does not call for any interference. Appeal being without merit deserves dismissal.

11. Before expressing any opinion on the merits of submissions advanced by both the learned counsel, it would be appropriate to refer to the settled law with regard to appreciating evidence of “Related witnesses”. Law is no longer *res integra* that the testimony of related witnesses cannot be discredited mechanically because the relationship of the witness cannot be the sole criteria to decide upon the credibility of the witness. The only caution for the Courts, in such scenario is to view the testimony with care and precaution and also to look out for some independent corroboration. Reliance in this regard is placed upon following judgments:

1. **Raju @ Balachandran vs. State of Tamil Nadu, AIR 2013 Supreme Court 983,**
2. **Alagaapuram R Mohanraj and Ors. vs. Tamil Nadu, 2012(3) RCR (Cri.) 729,**
3. **Prahalad Patel vs. State of M.P, 2011 (4) SCC 262.**

Keeping the settled proposition of law in mind, let us revert back to the facts of the case in hand. Admittedly, proceedings in the present case were initiated on the statements of Dhian Singh-PW3, son of late Geetan Singh, who in his statement (Ex.PF) elaborated upon the sequence of events leading to the incident on the day in question. According to him, his late father owned 10 killas of agricultural land out of which he and his other siblings (3 in number) are



owners of 2 kanals each. The remaining land is in the name of his father Geetan Singh. Out of this land, two and half killas, had been mortgaged in 2000 by his father Geetan Singh (since deceased) to Mohan Singh (A1) for a period of five years. For irrigating the said land, 1/3rd share of water in the tubewell had also been given to A1. Prior to the incident as well, A1 had requested late Geetan Singh to let him run the electric motor at low voltage with the help of “Cell”. This request was refused by Geetan Singh. A1 was unhappy on this count. At about 11.30 AM on 30.09.2002, he (complainant-PW3) and his sister-in-law were sitting in the courtyard, while his father Geetan Singh was going towards fields when A1 came out of his house and on the turn of the way leading to the fields, encountered Geetan Singh and yet again asked him to let him run the motor with the help of “Cell”. At the said time, A1 was armed with “handle/hatha” of the “toka”, whereas his wife i.e A2 was armed with “Cell”. On refusal of late Geetan Singh, both A1 and A2 unleashed an attack. A1 armed with “hatha” hit Geetan Singh on his stomach and chest etc, who fell down. Even thereafter, A1 continued with his assault and hit Geetan Singh on his chest and private parts. A2 also joined hands and assaulted the old man with the “Cell”. Kick blows were also given to Geetan Singh by both A1 and A2. Complainant next pointed out that both he and his sister-in-law, who were witnessing the incident rushed to the rescue of their father, who was breathing with difficulty, made him lie on the cot. Unfortunately, however, the old man succumbed to his injuries and died at the spot.

When he appeared in the witness box as PW3, complainant Dhian Singh reiterated his version and gave a graphic description of the manner in which the incident occurred. Almost on the similar lines is the testimony of his sister-in-law Balwinder Kaur-PW4, another eye-witness to the incident. Both these witnesses were subjected to rigorous cross examination but they withstood the test of the same. Simply because, there have been minor discrepancies as regards



where and when the statement of the complainant was recorded as also whether the police Authorities immediately visited the site or not, are too inconsequential to arrive at a conclusion that no incident as portrayed by the complainant in his complaint ever occurred at the relevant time, day and place. It would also be pertinent to point out that PW3, an uneducated rustic person had appeared in the Court for getting his statement recorded, almost after two years of the incident. Narration in a parrot like manner was not expected from him or the other eye witness namely Balwinder Kaur-PW4. From their conjoint testimony, it emerges that both the appellants had had a verbal altercation with the deceased, who was not letting them run the tubewell at a low voltage with battery cells. This altercation took an ugly turn, when A1, who was armed with the “hatha/handle of the toka” suddenly attacked the deceased and hit him with the same on his chest and stomach etc. A2 also joined in. Further, even when deceased fell down, both the appellants continued with their assault. When the entire facts and other connecting circumstances brought on record are carefully perused, the only inference that can be drawn is that incident as portrayed by the prosecution in fact had occurred at the relevant time, day and place. Simply because, no independent person was joined as a “witness” to the case proceedings, cannot be a ground in itself to view the entire case of prosecution with suspicion.

Now coming to the second question, as to whether the deceased died as a consequence of the injuries suffered by him. As noticed hereinabove, the case that has been set up by the prosecution is that the deceased was assaulted multiple times by both the appellants. Rather A1, as has been alleged by the complainant, gave blows to the deceased on his private organs. At this stage, it would be most appropriate to refer to the Post-mortem report (Ex.PE) prepared by Dr. Sudhir Kumar (PW2), wherein he noticed no external injuries on the body of the



deceased. While giving his opinion on the condition of internal organs of the body, Dr.Sudhir Kumar (PW2) opined as follows:

	External Appearance
1. Length of body	5' - 6"
1. Mark of ligature on neck and dissection etc	-
3. Condition of subject stout emaciated, decomposed etc clothing	A dead body of male mod. built mod nourished bearing a shirt a fatuee, a pajama and an underwear. Eyes and mouth semi closed. R.M & P.M staining present on the dependent parts of body.
4. Wounds, bruises, position, size, nature	Dissection of chest: The wall of chest & has no extravasation of blood and the bones are healthy. The both lungs are healthy;
5. Scalp, skull and vertebrae	Healthy & NAD
6. Membranes- Brain Spinal Cord	Healthy & NAD

III-THORAX

Walls, ribs and cartilages		Dissection of Heart: <u>The palor of the left ventericle, the left coronary artery has thrombus in it.</u>
Pleurae	Healthy	Dissection of abdomen:The wall of the abdomen were healthy and no abnormality detected. All the viscerae are healthy and no abnormality detected.
Larynx and tracheae	Healthy	
Right lung	As described	
Left lung	As described	
Pencadium-Heart Large vessels	As described	

Dissection of Penis & testicles: The Penis & Testicles are healthy.

1. Walls	As described
2. Periton_	Healthy
3. Mouth, Pharynx, and Oesophagus	Healthy
4. Stomach and its	Healthy & contains its _____

contents	
5. Small intestines and their contents	Healthy & contains some digested food material
6. Large intestines and their contents	Healthy & contains food material
7. Liver	Healthy & NAD
8. Spleen	Healthy & NAD
9. Kidneys	Healthy & NAD
10. Bladder	Healthy & contains no urine
11. Organs of generation external and Internal	Healthy & NAD

The cause of death in this case is Myacordial infraction sufficient to cause death in ordinary course of time.

Handed over to the police

Reconstituted dead body and his belongings

C -C of ____

Original police paper (IO) Sd/-

a) xxxx xxxx

b) between death & P.M within 24 hours

Sd/- Sudhir Kumar, MO, C.H Gurdaspur”

Based upon the post mortem report (Ex.PE), Dr. Sudhir Kumar vide Ex.PD/1 was of the opinion that the deceased died due to myacordial infraction as also the possibility of Myocardial infraction being caused by the scuffle or the hidden injury (if any) is very remote.

12. We have already noted the stand of the prosecution that the deceased was mercilessly assaulted by both the appellants. Had it been so, it was expected that the blows howsoever feeble they may be, would have left some bodily injuries atleast superficial in nature. In the case in hand, however, the deceased did not have any abrasion or injury mark on his body. Dr. Kumar specifically opined that the deceased was suffering from cardiac ailments and died as a consequence thereto. Even at the cost of repetition, it would be pertinent to point out that Dr. Kumar was also of the opinion that the possibility of deceased suffering



Myocardial infraction on account of assault, is very remote. During cross examination, upon a specific query put to him, he (Dr. Kumar) clarified that no injury marks were noticed on the body of deceased.

This brings us to another connected question involved in the present case, which is, as to whether both the appellants had “knowledge” that deceased was suffering from a Heart ailment. It is settled that the knowledge has to be imputed/IMPLIED from the connecting circumstances. Knowledge also means consciousness. On the question of knowledge, it was observed by the Supreme Court in the case of **Alister Anthony Pareira vs. State of Maharashtra, (2012) 2 SCC 648:**

“40. If the act is done with the knowledge of the dangerous consequences which are likely to follow and if death is caused, then not only that the punishment is for the act but also for the resulting homicide and a case may fall within Section 299 or Section 300 depending upon the mental state of the accused viz as to whether the act was done with one kind of knowledge or the other or the intention. Knowledge is awareness on the part of the person concerned of the consequences of his act of omission or commission indicating his state of mind. There may be knowledge of likely consequences without any intention. Criminal culpability is determined by referring to what a person with reasonable prudence would have known.

42. A person, responsible for a reckless or rash or negligent act that causes death about which he had knowledge as a reasonable man that such act was dangerous enough to lead to some untoward thing and the death was likely to be caused, may be attributed with the knowledge of the consequence and may be fastened with culpability of homicide not amounting to murder and punishable under Section 304 Part II IPC.

79. There is a presumption that a man knows the natural and likely consequences of his acts.



Insofar as the case in hand is concerned, there is nothing on record to suggest that the appellants were aware about the ailment of the deceased and had inflicted repeated blows on him knowing that the assault can trigger cardiac issues. Thus, the logical inference that can be drawn is that appellants have committed an offence punishable under Section 323 IPC and have to be punished for the same. At this stage, it would also be appropriate to refer to the decision of Hon'ble Supreme Court titled as **Pirthi vs. State of Haryana (1994) 1 SCC 498 Supp**, wherein it was held as under:

"Having regard to the medical opinion, admittedly the injury to the testicles was not the direct cause of death. No treatment was given for two days and it is only on 4.4.86, that the deceased was admitted in the hospital. But, unfortunately, in the meanwhile gangrene developed. Under the circumstances, the offence only amounts to one punishable under [Section 323 I.P.C.](#) In the result, the conviction of the appellant under [Section 304 Part II I.P.C.](#) and the sentence of four years' R.I. awarded there under are set aside. Instead he is convicted under [Section 323 I.P.C.](#) and sentenced to undergo seven months' R.I. The sentence of fine with default clause and the direction that the whole amount should be paid to the heirs of the deceased are confirmed. Subject to the above modification of sentence, the appeal is disposed of."

Further Hon'ble Supreme Court in [Satpal versus State, \(2012\) 195 DLT 452](#), examined the case law on the subject, including its earlier decision in [State of Karnataka versus Shivalingayya, AIR 1988 SC 115](#) and on noticing the facts of the case in hand converted the conviction to [Section 325 IPC](#) wherein the accused, had hurled a stone, which had resulted in fracture of the skull bone.

In [Shivalingayya's case \(supra\)](#), it was observed as under:

We have heard learned counsel for the parties as to the nature of offence and sentence. Agreeing with the High Court, we are inclined to the view that in the facts and circumstances, it cannot be said that the respondent had any intention of causing the death of the deceased when he committed the act in question nor could he be attributed with knowledge that such act was likely to cause his cardiac arrest resulting in his death. We wish to make it clear



that it cannot be that in all circumstances such an act would not be covered by clause Thirdly and therefore amount to culpable homicide amounting to murder punishable under Section 302 or culpable homicide not amounting to murder punishable under Section 304 Part II. It all depends on the facts and circumstances of each case whether the accused had the requisite intention or knowledge. The High Court has brought out the circumstances which show that the respondent acted on a sudden impulse. The High Court was therefore right in its conclusion that the act complained of would not amount to culpable homicide amounting to murder or not amounting to murder punishable under Section 302 or Section 304 Part II. The question however still remains as to the nature of the offence committed by the respondent. In our opinion, the High Court was not right in its view that the act of squeezing the testicles of a person would be an offence of voluntarily causing simple hurt punishable under Section 323 of the Indian Penal Code. The testimony of Dr T.C. Seetharam clearly shows that such act was dangerous to human life. It actually led to the cardiac arrest of the deceased as a result of which he died almost instantaneously. Such an act in the instant case would clearly be covered by clause Thirdly (sic Eighthly) of Section 320 of the Indian Penal Code and therefore amount to grievous hurt punishable under Section 325 of the Indian Penal Code.

13. Resultantly, in view of the findings recorded hereinabove, Criminal Appeal bearing CRA-S-2104-SB-2004 filed by the appellants is partly allowed. Their conviction under Section 304 Part II is modified to Section 323 IPC, which reads as under:

“323. Punishment for voluntarily causing hurt.—Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.”

14. Custody certificate of appellant No.1-Mohan Singh son of Pritam Singh reveals that he remained in the Jail from 09.10.2002 to 23.11.2002, thus he suffered



incarceration for about 01 month and 14 days. Insofar as appellant No.2-Harjinder Kaur wife of Mohan Singh is concerned, admittedly she never remained in custody.

15. Learned counsel for the appellants placed on the case file medical treatment record of appellant No.1 (presently aged about 61-62 years), issued by the Cardiology Department of Shriman Super Speciality Hospital, Nupur Pathankot Road, Jalandhar, which indicates that appellant No.1, who was admitted in the hospital with complaint of chest pain and dyspnea on 14.10.2022, was advised coronary angiography. He underwent PTCA+I.C Stents of proximal and mid OM and was discharged few days thereafter.

Learned counsel contended that in view of delicate medical condition of appellant No.1 and considering the fact that the incident occurred approximately 23 years ago, lenient view be taken in favour of both of them (appellant No.2 presently aged about 57 years).

16. Heard.

17. In view of the reasons putforth by learned counsel for the appellants, they are sentenced to pay a fine of Rs.1000/- each, in default of which they shall further undergo simple imprisonment for one month. In addition thereof, both the appellants shall pay compensation of Rs.20,000/- each under Section 357 Cr.P.C. Both the compensation and fine would be paid within a period of one week from today. Compensation amount once deposited shall be paid to the complainant and the other surviving children of deceased Geetan Singh.

18. With the abovesaid observation, appeal stands disposed of.

02.12.2025
manoj

(AARADHNA SAWHNEY)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No