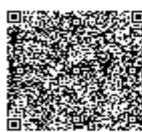


2026:PHHC:001978-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-1539-DB-2015 (O&M)

SURAJMAL Appellant(s)
Versus

STATE OF HARYANA Respondent(s)

Reserved on : 28.10.2025
Pronounced on : 12.01.2026
Whether full judgment
is pronounced
or
operative
part thereof : Full

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by: Mr. K.B.S. Mann, Advocate for appellant.

Mr. Dhruv Dayal, Additional A.G., Haryana.

LISA GILL, J.

1. This appeal has been filed by appellant for setting aside judgment dated 22.09.2015, passed by learned Sessions Judge, Rohtak, whereby appellant has been convicted for the offence punishable under Sections 302, 449 of Indian Penal Code, 1860 and Section 25 of Arms Act, 1959. Vide separate order of even date, appellant has been sentenced as under:-

Offence U/S	IMPRISONMENT	FINE	IN DEFAULT OF PAYMENT OF FINE
302 IPC	Imprisonment for life	Rs.10,000/-	Rigorous imprisonment for six months
449 IPC	Rigorous Imprisonment for five years	Rs.10,000/-	Rigorous imprisonment for six months
25 of Arms Act	Rigorous Imprisonment for one year	Rs.1,000/-	Rigorous imprisonment for one month

2. Brief facts of the case as per prosecution version are that SI Ramesh Chander – PW14, received information on 02.12.2014 at about 7:30 AM that on the intervening night of 01/02.12.2014 Naveen (deceased) and his mother Saroj Bala (PW10) were asleep in separate rooms of their house in village Mayna, when Naveen was shot dead by some unknown person. His dead body was found lying in his room by his brother Paramjeet (PW9). Upon receipt of this information, SI Ramesh Chander alongwith other police officials proceeded to the spot. Statement (Ex.PK) of Paramjeet, brother of deceased was recorded. Paramjeet stated that they were two brothers with him being eldest and younger being Naveen. Both of them were unmarried and that their father had passed away about two years ago. On the night of 01.12.2014, their uncle Surajmal (appellant) had come to their house at about 8:00 PM. Paramjeet accompanied him to his (uncle's) house where both of them slept. His mother Saroj Bala and younger brother Naveen were sleeping in different rooms in their own residence and when he came to his house at about 6:00 AM from his uncle's house, he found his brother Naveen lying dead on the cot in a pool of blood. There was firearm shot mark on his left temple. Paramjeet stated that some unknown persons have murdered his

brother after forcefully entering his house and inflicting firearm injury while nourishing some old grudge. Legal action was sought. *Ruqa* was sent to Police Station Sadar Rohtak at 7:30 AM and formal FIR, Ex.PB, was registered. FSL team and photographer HC Kuldeep Singh (PW12) were called at the spot. FSL team inspected scene of crime. Photographs were taken. FSL report is on record as Ex. PM/1 and PN/1. Blood lying on the cot was lifted and a mobile phone from scene of crime was taken in custody vide recovery memo Ex.PL, after preparing separate parcels. Rough site plan, Ex.PS, of the spot was prepared. Inquest report, Ex.PF, was prepared. Dead body was identified by Surajmal (appellant) and Anil son of Hawa Singh. Dead body was sent to PGIMS, Rohtak for postmortem with the request Ex.PD. Autopsy was conducted by Dr. Naresh Kumar PW4. Postmortem report is Ex. PE. Pellets taken out from the wound were converted into sealed parcels and taken in police custody as were the clothes of deceased taken in custody vide Memo Ex.PT.

3. On the same day i.e. 02.12.2014, statement (Ex.DA) of Saroj Bala under Section 161 Cr.P.C. was recorded. Saroj Bala stated that she had two sons Paramjeet and Naveen (deceased). Her husband had passed away about two years ago; her father-in-law Amir Singh who served the military had two sons, of whom her husband was the elder and younger to him i.e. her brother-in-law (*Dever*) was Surajmal. Her father-in-law, after retiring from army constructed two shops and a house in Ekta Colony, Rohtak, which were in possession of appellant. They also had a share in said property, regarding which quarrels had taken place between her son, Naveen (deceased) and appellant. About one year ago, rent of both shops was being taken by her son and house was possessed by appellant. She further stated

that appellant nourished a grudge against her son Naveen. On 01.12.2014 appellant had come to their house at about 8:00 PM inquiring about Naveen, who was not present in the house. Appellant asked as to where Naveen slept. At that time Paramjeet (PW9) was present in the house. Appellant took Paramjeet alongwith him to his house on the pretext of taking milk. After they left, Naveen returned home. She and Naveen slept in separate rooms; at midnight she heard a loud sound of a blast but did not take it seriously as it was the marriage season and someone might have burst a cracker. She further stated that at that time she found that her *Dever* i.e. appellant was going, so she went back to sleep. At about 6:00 AM when her son Paramjeet came home, they found Naveen dead on his cot with a firearm injury on his left temple, lying in a pool of blood. Upon seeing dead body of her son, she statedly became unconscious but now after regaining consciousness she expressed a suspicion about appellant having murdered her son while nourishing a grudge about rent of shops. Legal action was sought.

4. Appellant was arrested on 03.12.2024 from his residence. As per disclosure statement Ex.PN, appellant stated that after retiring from armed services, his father constructed two shops and a house in Ekta Colony which was registered in his name and he was in possession of these properties. After death of his father and brother, Naveen his nephew, was demanding share of these shops and house in regard to which Naveen used to quarrel with him. Naveen also physically abused his child and other family members. About a year prior, Naveen started taking rent of both the shops. Therefore, appellant decided to kill Naveen for this. He purchased a country made pistol (.12 bore) for a sum of Rs.5,000/- from Chhotu, a daily wage mason, resident of village Hardoi (Uttar Pradesh), who was residing in

his house at Ekta Colony on rent and he collected cartridge in marriage parties. On 01.12.2014 he went to the house of Naveen at about 8:00 PM to inquire about him but was told by Saroj Bala that Naveen had gone out. Then he asked Paramjeet to come with him on the pretext of bringing milk. Both, the appellant and Paramjeet went to sleep in his house and at night at about 2:00 AM he woke up and went to Naveen's house with the country made pistol for killing him. He made inquiries, thereafter he went to a room and kept the pistol at Naveen's temple and fired a shot and murdered him. He then returned to his house with his weapon and threw the empty cartridge in front of temple ground and concealed the pistol under the clothes lying in a bed in a room of his residential house and that he could have get same recovered. Pursuant to this disclosure statement Ex.PN, pistol Ex.MO-3 was recovered from his house and an empty cartridge Ex.MO-4 was recovered from outside a temple near appellant's house. They were taken in possession vide Seizure Memo, Ex.PQ. Sketch of pistol, Ex.PO and empty cartridge, Ex.PP, were prepared with rough site plan of place of recovery Ex.PU being prepared as well.

5. Parcels containing blood lifted from scene of crime, blood stained clothes of deceased, pellets, country made pistol Ex.MO-3 and empty cartridge, Ex.MO-4, were sent to FSL Madhuban for examination. Empty cartridge, Ex.MO-4, was found to have been fired from country made pistol Ex.MO-3. Upon completion of investigation, challan/final report under Section 173 Cr.P.C. was presented. Compliance of Section 207 Cr.P.C., was carried out, charge in respect to commission of offences punishable under Sections 302, 449 IPC and Section 25 of the Arms Act was framed on 16.02.2015. In order to prove the charges, prosecution examined

as many as 14 witnesses. Statement of appellant under Section 313 Cr.P.C. was recorded wherein he denied the incriminating material and evidence put to him while claiming innocence and false implication. Appellant denied that any disclosure statement was suffered by him or that any recovery was affected pursuant to such disclosure statement. In defence, three witnesses DW1 - Baljeet Singh, DW2 - Sanjay and DW3 - Zora Singh were examined.

6. Learned trial Court, upon considering the evidence on record, facts and circumstances concluded that prosecution has successfully proved its case beyond reasonable doubt against appellant for commission of offence at hand and thus convicted appellant for the offences in question and sentenced him as detailed in the foregoing paras. Aggrieved therefrom present appeal has been filed by appellant.

7. Learned counsel for appellant vehemently argued that evidence on record is woefully insufficient to sustain conviction of appellant. Admittedly, there is no eyewitness account in this case and prosecution is relying solely upon circumstantial evidence. It was argued that at the very first instance it is the case of Paramjeet, PW9, brother of deceased, that Naveen was murdered by some unknown persons who were nourishing grudge. Deceased, it is submitted was involved in a number of criminal cases (about 6 to 7 criminal cases). Present is a case of blind murder and appellant being falsely implicated therein, purportedly on the basis of a subsequent statement made by Saroj Bala, mother of deceased on the same day and so called disclosure statement, leading to alleged recovery of pistol and cartridge in question. It was argued that first and foremost there is no evidence on record to indicate that there was any dispute between appellant and deceased or his brother etc. in respect to property in question.

Furthermore, there is no evidence to indicate that Saroj Bala was unconscious in the morning when statement of Paramjeet was recorded. Statement of Saroj Bala (PW10), is highly unreliable inasmuch as it is stated that she saw the appellant at midnight. Furthermore, weapon and cartridge allegedly recovered at the instance of appellant, pursuant to his so called disclosure statement, does not connect him to commission of offence in question. Learned counsel submitted that appellant was present at all times since morning at the residence of deceased on discovery of dead body and has been incorrectly implicated in this matter. Learned counsel for appellant further argued that learned trial Court has failed to appreciate clear and cogent evidence brought on record in defence. Reference was made to statements of DW1, Baljeet Singh and DW3, Sanjay, who have stated in one voice that a country made pistol and an empty cartridge were recovered from the spot itself in the morning of 2nd December, 2014 when police had arrived at the spot. They also stated that Saroj Bala, mother of deceased was fully conscious in the morning when police had arrived at the spot. Said witnesses further stated that there has been no dispute in the family regarding property nor was there any quarrel between them. Deceased was stated to be involved in 6 – 7 criminal cases and that Paramjeet was also involved in a criminal case. Furthermore, appellant used to do *Parvi* (look-after the proceedings) of their cases. It was thus prayed that prosecution has not proved its case beyond reasonable doubt against appellant, therefore, this appeal be allowed and appellant be acquitted of all charges against him.

8. Learned counsel for State, per contra refuted the arguments as raised on behalf of appellant and submits that prosecution has proved its case beyond reasonable doubt on the basis of clear and cogent evidence on

record. Saroj Bala, mother of deceased has specifically stated that she saw the appellant at midnight, therefore, last seen evidence alongwith recovery of weapon of offence and cartridge in question upon disclosure statement of appellant clearly proves commission of offences by him. Merely because deceased was involved in criminal cases cannot come to aid of appellant. Dismissal of appeal was thus sought.

9. We heard learned counsel for the parties at length and have carefully scrutinized the record.

10. It is a matter of record that Naveen was found dead in the morning of 2nd December, 2014 at about 6:00 AM. As per initial statement of Paramjeet, Naveen was murdered by unknown persons, after entering their house inflicting firearm injuries while nurturing some old grudge. It is apparent from the record that dead body was identified by present appellant and Anil son of Hawa Singh. This is so recorded in the inquest report Ex.PF. It is at about 3:00/3:30 PM on 2nd December, 2014, that statement of Saroj Bala (Ex.DA), as has been detailed in foregoing paras, was recorded. Appellant was arrested on 03.12.2014, admittedly from his residential house and he statedly suffered disclosure statement Ex.PN, pursuant to which pistol Ex.MO-3 (.12 bore) and cartridge Ex.MO-4 were recovered.

11. It is apparent that in the present case, there is no eyewitness account and prosecution case is based entirely upon circumstantial evidence. It is relevant to note at this juncture that in order to prove commission of offences on the basis of circumstantial evidence, chain of events should be so complete that it unequivocally points to guilt of accused and does not permit any other hypothesis. Gainful reference in this regard can be made to

judgment of Hon'ble the Supreme Court in ***Hanumant Govind Nargundkar***

Vs. State of M.P. , AIR 1952 SC 343 wherein it has been held that:-

“10.It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused”

12. In ***Sharad Birdhichand Sarda v. State Of Maharashtra, 1984 AIR 1622***

AIR 1622, it was held that chain of events must form a consistent chain, so conclusive, as to rule out the possibility of any other hypothesis, except the guilt of the accused. Five golden principles enunciated therein were as follows:-

- (1) 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.

13. In ***Dharam Deo Yadav Vs. State of Uttar Pradesh, (2014) 5 SCC 509***, after referring to ***Hanumant's*** case (supra), Hon'ble the Supreme Court observed that “*Each and every incriminating circumstance must be clearly established by reliable and clinching evidence and the circumstances so proved must form a chain of events from which the only irresistible conclusion about the guilt of the accused can be safely drawn and no other hypothesis against the guilt is possible. Even when there is no eyewitness to support the criminal charge, but prosecution has been able to establish the chain of circumstances which is complete leading to inference of guilt of accused and circumstances taken collectively are incapable of explanation on any reasonable hypothesis save of guilt sought to be proved, the accused may be convicted on the basis of such circumstantial evidence.*”

14. In the given facts and circumstances, it is to be seen whether evidence on record points to unequivocal hypothesis of guilt of appellant and none other.

15. As per medical evidence and statement of PW4 - Dr. Naresh Kumar, who carried out postmortem on the dead body of Naveen, following injuries were found on his person:-

“b. Entry wound: 4 cm x 5 cm wound on left temporal region of skull. 2.5 cm lateral to eyebrow, 2 cm medial to ear. Blackening present around entry wound.

On dissection: over cranium below scalp: clotted blood. Fracture occipital skull. Clotted blood over occipital cerebrum.

On dissection of cerebrum: multiple bone pieces in cerebral matter. Multiple chahre (pellets) in cerebral matter was present in cerebellum matter. Fracture basal part of right side of skull.”

16. PW4 further opined that cause of death is head injury with cerebral hemorrhages and shock and “possibility of causing such injury by bullet injury cannot be ruled out.”

17. Saroj Bala while deposing as PW10 before learned trial Court, reiterated the version given by her in her statement Ex.DA. She reiterated that motive behind occurrence was the dispute between appellant and her two sons in respect to the house and two shops at Rohtak. However, it is a matter of record that there is no evidence whatsoever regarding any dispute with regard to property in question between appellant, deceased Naveen and his brother Paramjeet. PW10 has admitted in her cross-examination that she had never reported the matter regarding dispute of share of property at any time and neither any quarrel had been picked up with the accused, though appellant used to pick-up quarrels with them as her son was receiving rent of the shops. Though, PW10, Saroj Bala, stated that 20 days prior to the occurrence a dispute had taken place between Naveen and appellant in the *Gher* and matter was reported to the police by her mother-in-law, it is to be noted that there is no such report available on record. Learned counsel for appellant was unable to point out any evidence on record to indicate that rent of the shops in question was being taken by deceased since last one year.

18. Similarly, Paramjeet while deposing as PW9 stated that dispute over the property was going on between them and appellant since the date when murder and dacoity case was planted upon him in May, 2010, in which

he was acquitted but he thereafter remained in jail for 2 or 3 occasions. Curiously, PW9 in his cross-examination stated that "accused Surajmal never picked up quarrel with me over this property and he handed over documents of property to me by saying that he always used to do the work for our benefit." Thus, it can be safely concluded that there is no evidence on record to indicate existence of a dispute between deceased and his family with appellant. In the given circumstances, mere oral assertions by PW9 and PW10 without any corroboration cannot be relied upon to prove existence of dispute leading to murder of Naveen by appellant.

19. Presence of appellant at the time of occurrence i.e. intervening night of 01/02.12.2014 at about 2:00 AM, is also suspect. It is pertinent to refer to statement of PW9 - Paramjeet and PW10 - Saroj Bala in this respect. Paramjeet PW9, admitted that he slept in the house of appellant on the intervening night of 01/02.12.2014. PW9 – Paramjeet, stated that when appellant came to their residence at 8:00 PM, he asked PW-9 to accompany him and prepare tea as he had brought opium for Paramjeet. PW9 – Paramjeet, further stated that he accompanied appellant to his residence (residence of appellant) at about 8:00 PM and he slept at the residence of appellant. PW9 – Paramjeet, in his cross-examination disclosed that when he left the house of appellant at about 6:00 AM, appellant was sleeping at that time as they had both consumed *Charas* on the previous night and that on seeing dead body of his brother, he again went to the house of appellant and woke him up and informed him of the murder and appellant Surajmal then accompanied him to his residence. It is highly improbable that PW9 - Paramjeet would have accompanied appellant to his house on his asking and

thereafter even slept at the house of appellant in case there had been any dispute regarding property amongst them.

20. PW10 – Saroj Bala also stated that Paramjeet had accompanied the appellant on 01.12.2014 at about 8:00 PM. In her statement Ex.DA, she stated that Paramjeet had come back to the house at about 6:00 AM and she alongwith Paramjeet saw that Naveen was lying dead on his cot. Relevant portion of statement of Saroj Bala, Ex.DA, recorded on 02.12.2014 reads as under:-

‘My father in law had been retired from military. He had got constructed two shops and one house in Ekta Colony Rohtak but which were possessed by my Dewar (husband’s younger brother). We had also our shares in that property. Quarrels have been taken place between my son Naveen and my Dewar Suraj Mal regarding that property. About one year before, rent of both shops was being taken by my son Naveen and house was possessed only by my Dewar. My Dewar has been nourished grudge with my son Naveen (since deceased) in this regard. Yesterday i.e. on 01.12.2014, at about 8 P.M. (i.e. at Night) my Dewar Suraj Mal had come to my/our house and he was enquiry about Naveen but Naveen was not available (present) in the house at that time. My Dewar enquired that where Naveen sleeps. Only Paramjit was present in the house at that time, who was carried by my Dewar with him in his house on the pretext of taking milk. After their departure, my son Naveen also turned up in the house, I and my son Naveen were sleeping in separate rooms. At mid night I heard a loud sound of blast, but did not take it seriously, as it was season of marriages. Some body may ring cracker. I saw at that time and found my Dewar was going, so I went back and slept. Today in the morning at about 6.00 A.M. my son Paramjit comes to the house, so we saw that Naveen was lying as dead on his cot. There was a fire arm injury mark on his left temple and blood in huge quantity had been ouzed out. Seeing the dead body of my son, I became unconscious. Now I am in full sense/consciousness. I am fully suspected that my Dewar Suraj Mal nourishing grudge about rent of shops has committed murder of my son Naveen, while stricking fire arm shot at him. Legal action be taken against him.’

21. In her statement before learned trial Court, she reiterated the same and then again stated that when she saw dead body of Naveen, Paramjeet was not present and that upon seeing dead body of her son, she became unconscious and regained consciousness at about 3:30 PM only. Relevant portion of examination-in-chief of PW10 Saroj Bala before learned trial Court reads as under:-

‘Stated that on 1.12.2014, at about 8.00 p.m. my devar accused Suraj Mal came to our house and asked about my son Naveen since deceased. He also asked about the place where Naveen used to sleep. Thereafter accused Suraj Mal took my son Paramjit on the pretext of bringing milk. My son Paramjit came back after taking the milk. In the night, I and my son Naveen went to sleep in the different rooms of the house. At about midnight, I heard the noise of fire shots. I woke up and saw Suraj Mal accused while going out from the door of our house. Thereafter I went to sleep. In the morning, when I woke up, I saw the dead body of my son Naveen lying on the cot having gunshot injury on his temporal region and my son Paramjit was also present. Again said that my son Paramjit was not present there. After seeing the dead body of my son, I became unconscious. I regained my consciousness at about 3.30 p.m. and thereafter I got recorded my statement to the police. My devar Suraj Mal had murdered my son Naveen. Motive behind the occurrence was that my father-in-law had purchased one house and two shops at Rohtak and some dispute was going on in between my sons and accused Suraj Mal over the property.’

22. PW10 - Saroj Bala stated that she was sleeping in the cattle room. On the intervening night of 01/02.12.2014, she saw the appellant leaving her house after she came out of the cattle room of their house and that she did not ask Surajmal about his presence at that time as she was under the impression that people may think about her having illicit relations with him. There is definite and material improvement made by her in her statement before learned trial Court, as in her statement Ex.DA (with which she was duly confronted), it is not so recorded that she had seen appellant

after she came out of cattle room where she was sleeping. There is a mention of forcible entry into the house by unknown persons by Paramjeet at the outset, though this version was changed later in the day. There is no evidence on record to indicate that deceased and his mother were sleeping in their house with all doors open or that appellant had free access to the house. It is further stated by PW10 - Saroj Bala in cross-examination that though she heard noise of a shot at about 2:00 AM, upon which she woke up and rushed outside her house but did not see anybody in the street at that time except Surajmal going out of the door of their house and then she presumed that noise may be due to bursting of crackers at some marriage function. It is again to be noted that there is no evidence on record to indicate as to whether any marriage was being performed in the neighbourhood or there was any noise of *Ghurchadhi* as has been stated by her. In her cross-examination, PW10 expressed her inability to recollect the name or detail of the family in which marriage function was being held. Furthermore, perusal of site plan reveals that the room in which dead body of Naveen was recovered, is on the other side of house where Saroj Bala was sleeping. There is no evidence on record that the courtyard of the deceased was illuminated with any light which enabled PW10 to identify the appellant, except her bald response in the cross-examination that a bulb was lit in the courtyard. Evidence on record does not provide any corroboration thereof.

23. It is further to be noted that there is no evidence on record to indicate that PW10 - Saroj Bala was unconscious at the time when PW9 - Paramjeet had reported the matter to the police in morning. PW10 - Saroj Bala in her statement Ex.DA stated that when her son Paramjeet came home at 6:00 AM, they saw that Naveen was lying dead on his cot. However, in

her statement before learned trial Court, she stated that she saw dead body of her son when she woke up in morning and she became unconscious and regained consciousness at about 3:30 PM only. PW9 - Paramjeet, in his cross-examination stated that when police came to the spot at 7:00/8:00 AM, his mother was semi-conscious. PW14 – SI Ramesh Chander, Investigating Officer stated that Saroj Bala, mother of deceased did not tell them anything in morning when they were present at the spot as she was under shock and was weeping with other ladies of village. SI Ramesh Chander – PW14 did not state that she was unconscious or semi-conscious. PW12 – Constable Kuldeep Singh also stated that in the morning of 2nd December 2014, mother of deceased was present, though she was weeping and semi-conscious. PW12, Constable Kuldeep Singh, has denied the suggestion that appellant Surajmal was with them and had identified the dead body. This is in the teeth of specific inquest report Ex.PF, which records that dead body was identified by present appellant alongwith Anil son of Hawa Singh. Thus, explanation that Saroj Bala was unconscious since morning of 2nd December till 3:30 PM, is not borne out from the evidence on record as such. It is possible that she may have been under shock but if she was weeping with other ladies, it is impossible that she would not have revealed the events as are stated to have unfolded with the appellant coming in the dead of night to murder her child and especially keeping in view the fact that appellant was admittedly present at the spot since morning.

24. Another aspect which has been relied upon by the prosecution to prove its case against appellant is recovery of pistol (.12 bore) as well as the cartridge which is reported to have been fired from the same weapon pursuant to disclosure statement, Ex.PN. As per prosecution case, appellant

revealed that he had purchased said weapon which is admittedly an unlicensed one, for a sum of Rs.5,000/- from one Chhotu, a daily wage mason, who was residing in his own house at Ekta Colony, Rohtak and he had collected the cartridge in marriage parties. There is no such evidence to indicate purchase of this weapon from a tenant of appellant himself or any other. PW14 – SI Ramesh Chander, admitted in his cross-examination that there was no independent person present at the time of reducing his disclosure statement as appellant was interrogated in police station and that place of recovery of cartridge is accessible to all. Furthermore, weapon in question has clearly not been connected to commission of offence. Such recovery by itself cannot lead to an irresistible conclusion of commission of offence in question by appellant. Evidentiary value of disclosure statement Ex.PN, which has admittedly been recorded in police custody, is negligible.

25. Another important fact to be noted in this matter is that PW9 - Paramjeet and PW10 - Saroj Bala have admitted that deceased was involved in a number of criminal cases. Though this fact in isolation may not be material but when all circumstances are considered as a whole, it assumes importance. It is pertinent to note that PW9 – Paramjeet, has in fact stated that appellant used to do *Parvi* of his cases as well as criminal cases in which Naveen was involved. Six to seven criminal cases have been admitted to be registered against deceased. In the given facts and circumstances, a serious doubt is raised on the prosecution version. Learned trial Court has recorded that though Paramjeet and Saroj Bala, star witnesses of prosecution have not given any details regarding property over which they had a dispute nor placed any title deeds of said property to show that it was purchased by their ancestor Amir Singh or that there was a civil dispute

between parties, same has been conveniently ignored. It has thus been incorrectly concluded that motive behind commission of offences is proved.

26. Similarly, it is incorrectly held by learned trial Court that explanation given by PW10 - Saroj Bala regarding non-recording of facts till 3:30 PM on 2nd December, 2014, is duly explained. Material improvements made by PW10 - Saroj Bala in her statement have been blind sided by saying that these are only explanations given by her.

27. Learned trial Court has not appreciated the evidence regarding recovery of weapon and cartridge in correct perspective. Recovery of said weapon and cartridge itself is suspect in the given facts and circumstances. Recovery of said weapon and cartridge has been made in the presence of Constable Kuldeep Singh (PW12), Head Constable Sandeep Kumar (PW13) and SI Ramesh Chander (PW14). Recovery of pistol was allegedly made from a *Dewan*/bed in his residence. It is stated that he opened the lock and entered the room in his house and got recovered the pistol. Empty cartridge was recovered from the ground of temple. PW13 – HC Sandeep Kumar, admitted that place of recovery is accessible to all. He stated that persons from public were present but admittedly none were joined at the time of recovery. Admittedly, mere non-joining of independent witness at the time of recovery by itself may not be fatal to the prosecution case or impinge upon genuineness of recovery. However, in the wake of attending circumstances and evidence on record, a serious doubt is cast on recovery of this weapon. Moreover, this recovery in any case does not *per se* connect the appellant with commission of the offence in question.

28. In our considered opinion, in the given facts and circumstances, appellant is entitled to benefit of doubt. Prosecution has been unable to

prove its case beyond reasonable doubt. Chain of events is not so complete as to point unerringly and unequivocally to the guilt of appellant. It cannot be said that no other hypothesis is possible or probable in the given factual matrix. Therefore, in the given facts and circumstances, learned trial Court has erred in convicting the appellant as detailed in the foregoing paras for commission of offences punishable under Sections 302, 449 IPC and Section 25 of the Arms Act vide judgment and order of sentence dated 22.09.2015.

29. No other argument was addressed.

30. In view of the above, this appeal is allowed. Impugned judgment and order of sentence dated 22.09.2015 are set aside and appellant is acquitted of all charges against him. He be released forthwith, if not required in any other criminal case.

31. Pending miscellaneous application(s), if any, stand(s) disposed of accordingly.

**(LISA GILL)
JUDGE**

12.01.2026

Sunil

**(MEENAKSHI I. MEHTA)
JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No
Uploaded on : 12.01.2026