2026:PHHC:009315-DB

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

CRA-D-290-DB-2004(O&M)
Reserved on: 20.01.2026
Pronounced on:22.01.2026

Swarn Singh ...Appellant

vs.

State of Punjab …Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat
Hon'ble Mr. Justice H.S.Grewal

Present : Mr. Arnav Sood, Advocate (Amicus Curiae)
for the appellant.
Mr. Rahul Jindal, AAG, Punjab.

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N.S.Shekhawat J.

1. The appellant has filed the present appeal against the impugned judgment of conviction and order of sentenced dated 11.09.2023 passed by the learned Additional Sessions Judge (Adhoc), Amritsar, whereby, the appellant has been convicted for commission of the offences punishable under Sections 302 of IPC.

2. The FIR (Ex. PC) in the present case was registered on the basis of the statement made by Tarsem Singh S/o Mukhtar Singh and the same has been reproduced below:-

> *"Statement of Tarsem singh s/o Mukhtiar Singh, aged about 35 years, caste Mazhbi, r/o village Khasa. It is stated that I am a resident of village Khasa and do labour work. Today, it was about 7 p.m. I, Baljinder Singh s/o Gurbachan Singh, Mazhbi r/o Khase, who is my cousin (my real maternal aunt's son) and his brother Lakhwinder Singh @ Lakha, r/o Khase, the three of us had*

gone to fields via Kuthoha way on the side of railway lines to get ease of and were returning home, and when we reached at the bridge near the fields of Baljit Singh, Beharwale, accused Swaran Singh @ Soni s/o Radha Singh and his son Harjit singh, who had covered themselves with coarse cloth-sheets(Khes), were seen coming from the side of the village. Swaran Singh asked Baljinder Singh who are you. In reply, Baljinder Singh asked if he had recognized him and further told that he was Baljinder. Upon that, Harjit Singh son of Swaran Singh raised a Lalkara and said to his father that he should not be spared that day. At the same time, both of them grappled with Baljinder Singh on this I and Lakhwinder Singh tried to separate each other. While we were trying to separate them, Swaran Singh took out a dagger from the wrapping cloth of his body and gave blow to Baljinder Singh which struck his stomach. Baljinder Singh raised noise-"Mar ditta" and further requested for help. Blood began to come out from the stomach of Baljinder Singh and he fell flat. While we were trying to handle him, both the father and son ran away from the spot alongwith their weapons, within no time, we took him to our house. Then we took tempo (vehicle) from Giani Jaswant Singh of village Khasa. We viz Lakhwinder Singh, Gurbachan Singh father of Baljinder Singh, I and other people of the village took Balinder Singh to Govt. hospital, on that vehicle, when he died. The cause of enmity is that about 8-9 months back from that day, Swaran Singh and his

son grappled with Baljinder Singh, on the issue that Baljinder Singh had an illicit relation with the daughter of Swaran Singh and a verbal compromise was effected in the village itself. Swaran Singh and his son Harjit Singh have killed Baljinder Singh with common intention for that very reason of enmity. Leaving Lakhwinder Singh son of Gurbachan Singh, there for the security of the dead-body. I and Gurbachan Singh were going to the police station for information where you met us. The statement has been recorded to you. The same has been heard and admitted to be correct. I claim that legal action be taken against them.

Attested *L.T.I. of abovesaid*
Sd/SI PS: Chheharta *Tarsem Singh.*
Dated 05.12.2000."

3. After registration of the FIR, the dead body was shifted to the hospital for post-mortem examination. Sukhdev Singh, SI/SHO went to the hospital and prepared the inquest report (Ex.PB). The rough site plan of the place of occurrence was prepared and the statement of the witnesses were recorded. On 06.12.2000, the appellant was arrested and was interrogated. In pursuance of the disclosure statement suffered by him, he got recovered a *churri* (knife), which was concealed by him. However, after taking into possession, the knife (*churri*) was sealed in a sealed parcel and was taken into possession by the police. After completing the necessary investigation, challan was presented against the appellant by the police under Section 302 IPC.

4. After committing the case to the Court of Sessions, the trial Court considered the challan and the documents accompanying it on 28.09.2001 and

found that a *prima facie* case under Section 302 IPC was made out against the appellant. Ultimately, the appellant was charge-sheeted for commission of the offence under Section 302 IPC and pleaded that he has been falsely implicated in the present case and claimed to be tried by the trial Court.

5. During the course of trial, the prosecution examined PW-1, Dr. Gurmanjit Rai, Lecturer, Department of Forensic Medicines, Government Medical College, Amritsar, who had conducted the post-mortem examination on the dead body of Baljinder Singh at about 12:40 p.m. on 05.12.2000. In his testimony, Dr. Gurmanjit Rai, PW-1 stated as under:-

> *"The length of body was 5'7". It was a dead-body of young male, well built and well nourished, wearing white shirt, with black lines, white banyan, brown underwear, green pant and biscuit coloured socks. Rigor mortis was present all over the body. Post-mortem staining was present on the back of body sparing areas of contact. Banyan and shirt were having cut holes corresponding to the injury and clothes were found blood stained. Eyes and mouth were found closed. I found the follwing injuries:-*
>
> *1. Incised stab wound 2.2 x 0.8 cm was present on front of left side of chest, 7 cms below nipple, at 5 clock position, clotted blood was present.*
>
> *On dissection: enterior chest wall, left lung, left pleura, diaphragn and mesentry omentum and vessels were having cut injuries, Left plerural cavity was having 1200 c.c. fluid blood and peritoneal cavity was having about 700 c.c. of bluid and clotted*

blood. Both lungs, liver and spleen were found pale on dissection. Stomach was found having about 230 c.c semi digested food. The rest of the organs were found normal.

Injury No.1 was ante-mortem in nature. The cause of death in this cage was haemorrhage and shock as a result of injury No.1, which was sufficient to cause death in the ordinary course of nature. Probable time elapsed between injury and death was within few minutes to an hour and between death and post-mortem was about 12 to 24 hours. I handed over to police:-

1. Stitched dead-body after post-mortem examination along with its belongings duly signed by me.

2. Carbon copy of P.M.R.

3. Police papers 1 to 14 pages duly signed by me.

EX.PD is the correct carbon of the post-mortem report and Ex. PD/1 is the pictorial diagram showing the seats of injuries, the original of which I have brought today in the Court and the same bear my signatures."

6. The prosecution further examined PW-2, HC Mukesh Kumar and PW-3 Constable Narinder Kumar, PW-4 Constable Mohinder Pal and PW5 Constable Jaswant and the testimonies of all these witnesses were formal in nature. The prosecution further examined PW-6 Tarsem Singh, who supported the case of the prosecution in toto. On the basis of his statement, the FIR (Ex.PC) was registered against the present appellant and his son. The prosecution further examined PW-7 Lakhwinder Singh, who also supported the

testimony of PW-6, Tarsem Singh. The prosecution further examined PW-8 Rishi Ram, draftsman, who had prepared the scaled site plan and exhibited the same as Ex.PK. He was also cross-examined by the appellant. The prosecution further examined Sukhwinder Singh as PW-9 and he also supported the testimony of PW-6 Tarsem Singh and PW-7 Lakhwinder Singh. He had initially recorded the statement of Tarsem Singh, complainant and had obtained his signatures. He also went to the hospital alongwith Tarsem Singh and Gurbachan Singh and prepared the inquest report (Ex.PB). He also recorded the statements of various witnesses, before the arrest of the main accused and had sent the parcels to the FSL for examination.

7. After recording the prosecution evidence, the statement of Swaran Singh was recorded under Section 313 Cr.P.C. and he stated that he was innocent and he had been falsely implicated in the present case. In defence, no evidence was produced by the appellant and thereafter, his evidence was also ordered to be closed by the trial Court.

8. Learned counsel for the appellant has vehemently argued that both the eyewitnesses, namely, PW-6 Tarsem Singh and PW-7 Lakwinder Singh were closely related to Baljinder Singh (since deceased) and their testimonies were not reliable as they had made considerable improvements in their respective testimonies. Still further, the occurrence had taken place at about 7 p.m. and it was impossible to identify all the assailants at that time. Apart from that, the version of the prosecution was highly improbable and unbelievable. Still further, there was considerable delay in registration of the FIR in the present case. Learned counsel for the appellant further submits that

the appellant had no intention to commit the murder of the deceased. The occurrence had taken place at the spur of the moment and it is apparent that the deceased had suffered only one injury on his person. Consequently, in the alternative, he prayed that the appellant may be convicted under Section 304 Part I of IPC, instead of Section 302 IPC.

9. On the other hand, learned State counsel submits that the testimonies of PW-6 Tarsem Singh and PW-7 Lakhwinder Singh cannot be rejected on the ground that they are closely related to the deceased. In fact, from the facts, it is apparent that the witnesses used to live there only and from the prosecution evidence, it is apparent that both of them had been staying together. Apart from that, the matter was reported to the police without any delay. He has vehemently opposed the submissions made by learned counsel for the appellant and submitted that the prosecution had proved the case against the appellant beyond the shadow of reasonable doubt. In fact, Tarsem Singh (PW-6) and Lakhwinder Singh (PW-7) were the eyewitnesses of the occurrence and their presence at the place of occurrence was natural and believable. Further, even the matter was reported to the police without any unreasonable delay. Still further, the deceased was having inimical relations with the appellant and due to this, he was eliminated by the appellant and the offence under Section 302 IPC is clearly made out against him. Further, it is a case of eyewitness account and the statements of PW-6 Tarsem Singh and PW-7 Lakhwinder Singh are liable to be believed by this Court.

10. We have heard learned counsel for the parties and perused the record carefully.

11. The case of the prosecution was unfolded by complainant-Tarsem Singh (PW-6), who stated that at about 7 p.m. he, Lakhwinder Singh (PW-7) and Baljinder Singh (since deceased) had gone in the fields to ease themselves and while returning, Baljinder Singh, deceased was ahead of them. When they reached near the small bridge for washing their hands, Swaran Singh, appellant and his son, Harjit Singh met them there. Swaran Singh asked the deceased as to who he was. Baljinder Singh, deceased had told his name to him and had asked him as to whether he had identified him. Then Swaran Singh, accused and Baljinder Singh then grappled with each other and both of them were wearing *khes* (sheet) around their bodies. Harjit Singh exhorted by stating that Baljinder Singh should not be spared. Even Harjit Singh had taken Baljinder Singh into his arms and Swaran Singh gave a blow with *Chhuri* (long knife), which he was having under his *khes* and gave a blow on the stomach of the deceased. Swaran Singh and Harjit Singh had fled away alongwith *Chhura*. Baljinder Singh had fallen down and some blood also oozed out of the injury from his person. Lakhwinder Singh (PW-7) had tied a Parna over the injury of Baljinder Singh and had taken him home. He was given milk by the lady at home and was immediately rushed to the hospital in the tempo of Jaswant Singh. He was declared dead in the hospital. In his cross-examination, he stated that it was pitch dark at the time of incident and the persons were not visible. However, the faces of accused and his son were visible to them. The testimony of PW-6, Tarsem Singh has been duly corroborated by PW-7 Lakwinder Singh, who was also present the place of occurrence and had witnessed the causing of injuries by appellant and his son to Baljinder Singh. He also stated that Swaran

Singh, appellant was suspecting that Baljinder Singh, deceased was having illicit relations with his daughter.

12. The statements of PW-6, Tarsem Singh and PW-7, Lakhwinder Singh were found to be correct during the course of investigation by the police. The prosecution examined PW-9, Sukhwinder Singh, who was posted as SI/SHO of the concerned Police Station on the date of occurrence. He recorded the statement of Tarsem Singh and made an endorsement on the same and on the basis of the said statement, the FIR (Ex.PC) was registered in the Police Station. He also prepared the inquest report (Ex. PB) and sent the visra to FSL. He also recorded the statements of other witnesses and prepared the rough side plan (Ex.PL). Even various other incriminating material was also taken into possession by him. On 06.12.2000, Ajit Singh produced Swaran Singh, appellant and Harjit Singh, co-accused in police post, Khasa, and he arrested both of them. In pursuance of his disclosure statement, on 08.12.2000, Swaran Singh, appellant got recovered a *Churri* (Knife) from his house. The knife was taken into possession by the police, vide memo (Ex.PQ) and the rough site plan of the face of recovery was also prepared as Ex.PR. He recorded the statement of witnesses and also sent the knife and other articles for examination.

13. As observed above, PW-6, Tarsem Singh and PW-7, Lakwinder Singh had categorically stated that Swaran Singh, appellant had caused an injury on the stomach of Baljinder Singh, deceased with a *Churri (*long knife). As per Dr. Gurmanjit Rai (PW-1), the deceased had suffered the following injury:-

> "*1. Incised stab wound 2.2 x 0.8 cm was present on front of left side of chest, 7 cms below nipple, at 5 clock position, clotted blood was present.*
>
> *On dissection: enterior chest wall, left lung, left pleura, diaphragn and mesentry omentum and vessels were having cut injuries, Left plerural cavity was having 1200 c.c. fluid blood and peritoneal cavity was having about 700 c.c. of bluid and clotted blood. Both lungs, liver and spleen were found pale on dissection. Stomach was found having about 230 c.c semi digested food. Rest of the organs were found normal."*

As per PW-1, Dr. Gurmanjit Rai, injury No.1 was anti-mortem in nature and the cause of death in this case was haemorrhage and shock as a result of injury No.1, which was sufficient to cause death in the ordinary course of nature. He also proved on record the post-mortem report as Ex.PD.

14. Learned counsel for the appellant had vehemently argued that both the eyewitnesses were close relatives of the deceased and were discrepant on material particulars of the case and had also made several improvements in their earlier version and should not have been relied upon by the trial Court. However, after perusal of the testimonies of PW-6, Tarsem Singh and PW-7, Lakhwinder Singh, we find no grounds to accept the said submission. We have carefully perused the testimonies of both the witnesses and find that there are minor discrepancies in the statements of both the witnesses, which have been correctly ignored by the trial Court as well. We are of the considered opinion that both the witnesses were rustic villagers and had appeared before the trial Court as witnesses after several months and such insignificant contradictions are liable to be ignored by the appellate Court. Both the witnesses had given the

same time and date of the occurrence and from a perusal of their respective testimonies, it is apparent that both the witnesses had narrated the vivid account of the entire occurrence. Both the witnesses had specifically alleged that on reaching, Swaran Singh, appellant asked the deceased as to who he was and he replied that he was Baljinder Singh and as to how he had not identified him. Thus, on all material particulars, the testimony of PW-6, Tarsem Singh finds corroboration from the testimony of PW-7, Lakhwinder Singh. Apart from that, even though it was pitch dark, yet both the parties were known to each other. Even, in darkness, a witness can easily identify his co-villager, whom had been seen for the last several years and it cannot be stated that the witnesses had not identified the accused in the present case.

15. Apart from that, the testimonies of PW-6 Tarsem Singh and PW-7, Lakhwinder Singh find corroboration from the medical evidence and from the testimony of Dr.Gurmanjit Rai i.e. PW-1, it is apparent that the deceased had suffered one incised stabbed wound on the left side of his chest, 7 cms below nipple and clotted blood was present on the same. Even the statements of both the witnesses were duly investigated by the police and both the witnesses were found to be truthful, even during a course of investigation. Thus, there is no doubt that the injury on the chest of person was caused with the help of a knife by Swaran Singh, appellant and PW-6 Tarsem Singh and PW-7 Lakhwinder Singh had duly identified him as the accused.

16. During the course of arguments, learned counsel for the appellant has raised an argument, in alternative and has submitted that the essentials of Section 302 IPC are completely missing in the instant case and rather, the

appellant is liable to be convicted for commission of the offence under Section 304, Part I of IPC. It was a case of single injury and the occurrence had taken place at the spur of the moment, without any pre-meditation. Apart from that, neither the appellant had acted with cruel or unusual manner and even had not repeated the blows with a knife. Consequently, the appellant may be convicted for commission of offence under Section 304 Part II (1) IPC.

17. The Hon'ble Supreme Court, in similar circumstances, considered the Exception No.4 of Section 300 IPC in the matter of ***"Mahesh Balmiki Vs. State of M.P., (2000) 1 SCC 319***, and held as follows:-

> *"9. ... there is no principle that in all cases of a single blow Section 302 IPC is not attracted. A single blow may, in some cases, entail conviction under Section 302 IPC, in some cases under Section 304 IPC and in some other cases under Section 326 IPC. The question with regard to the nature of offence has to be determined on the facts and in the circumstances of each case. The nature of the injury, whether it is on the vital or non-vital part of the body, the weapon used, the circumstances in which the injury is caused and the manner in which the injury is inflicted are all relevant factors which may go to determine the required intention or knowledge of the offender and the offence committed by him. In the instant case, the deceased was disabled from saving himself because he was held by the associates of the appellant who inflicted though a single yet a fatal blow of the description noted above. These facts clearly establish that the appellant had the intention to kill the deceased. In any event, he can safely be attributed the knowledge that the knife-blow given by him was so imminently dangerous that it must in all probability cause death or such bodily injury as is likely to cause death."*

18. Similar observations have been made by the Hon'ble Supreme Court in the matter of ***"Dhirajbhai Gorakhbhai Nayak Vs. State of Gujarat (2003) 9 SCC 322,*** wherein it was held as follows:-

> *"11. The fourth exception of Section 300 IPC covers acts done in a sudden fight. The said Exception deals with a case of prosecution (sic provocation) not covered by the first exception, after which its place would have been more appropriate. The Exception is founded upon the same principle, for in both there is absence of premeditation. But, while in the case of Exception 1 there is total deprivation of self-control, in case of Exception 4, there is only that heat of passion which clouds men's sober reason and urges them to deeds which they would not otherwise do. There is provocation in Exception 4 as in Exception 1, but the injury done is not the direct consequence of that provocation. In fact, Exception 4 deals with cases in which notwithstanding that a blow may have been struck, or some provocation given in the origin of the dispute or in whatever way the quarrel may have originated, yet the subsequent conduct of both parties puts them in respect of guilt upon an equal footing. A "sudden fight" implies mutual provocation and blows on each side. The homicide committed is then clearly not traceable to unilateral provocation, nor could in such cases the whole blame be placed on one side. For if it were so, the Exception more appropriately applicable would be Exception 1. There is no previous deliberation or determination to fight. A fight suddenly takes place, for which both parties are more or less to be blamed. It may be that one of them starts it, but if the other had not aggravated it by his own conduct it would not have taken the serious turn it did. There is then mutual provocation and aggravation, and it is difficult to apportion the share of blame which attaches to each fighter. The help of Exception 4 can be invoked if death is caused (a) without premeditation, (b) in a*

sudden fight, (c) without the offenders having taken undue advantage or acted in a cruel or unusual manner, and (d) the fight must have been with the person killed. To bring a case within Exception 4 all the ingredients mentioned in it must be found. It is to be noted that the "fight" occurring in Exception 4 to Section 300 IPC is not defined in IPC. It takes two to make a fight. Heat of passion requires that there must be no time for the passions to cool down and in this case, the parties had worked themselves into a fury on account of the verbal altercation in the beginning. A fight is a combat between two and more persons whether with or without weapons. It is not possible to enunciate any general rule as to what shall be deemed to be a sudden quarrel. It is a question of fact and whether a quarrel is sudden or not must necessarily depend upon the proved facts of each case. For the application of Exception 4, it is not sufficient to show that there was a sudden quarrel and there was no premeditation. It must further be shown that the offender has not taken undue advantage or acted in a cruel or unusual manner. The expression "undue advantage" as used in the provision means "unfair advantage".”

19. In another landmark judgment, ***“Pulicherla Nagaraju v. State of A.P.”, (2006) 11 SCC 444,*** the ingredients of the offences under Sections 302, 304 Part I and 304 Part II IPC came up for consideration before the Hon’ble Supreme Court, and it was held as follows:–

“29. Therefore, the court should proceed to decide the pivotal question of intention, with care and caution, as that will decide whether the case falls under Section 302 or 304 Part I or 304 Part II. Many petty or insignificant matters - plucking of a fruit, straying of cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion may be totally absent in such cases.

There may be no intention. There may be no premeditation. In fact, there may not even be criminality. At the other end of the spectrum, there may be cases of murder where the accused attempts to avoid the penalty for murder by attempting to put forth a case that there was no intention to cause death. It is for the courts to ensure that the cases of murder punishable under Section 302, are not converted into offences punishable under Section 304 Part I/II, or cases of culpable homicide not amounting to murder, are treated as murder punishable under Section 302. The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances: (i) nature of the weapon used; (ii) whether the weapon was carried by the accused or was picked up from the spot; (iii) whether the blow is aimed at a vital part of the body; (iv) the amount of force employed in causing injury; (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight; (vi) whether the incident occurs by chance or whether there was any premeditation; (vii) whether there was any prior enmity or whether the deceased was a stranger; (viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation; (ix) whether it was in the heat of passion; (x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner; (xi) whether the accused dealt a single blow or several blows. The above list of circumstances is, of course, not exhaustive and there may be several other special circumstances with reference to individual cases which may throw light on the question of intention. Be that as it may."

20. In another case, ***"State of Rajasthan Vs. Kanhaiya Lal (2019) 5 SCC 639***, the Hon'ble Supreme Court has held as follows:-

"7.3. In Arun Raj [Arun Raj v. Union of India, (2010) 6 SCC 457 : (2010) 3 SCC (Cri) 155] this Court observed and held that

there is no fixed rule that whenever a single blow is inflicted, Section 302 would not be attracted. It is observed and held by this Court in the aforesaid decision that nature of weapon used and vital part of the body where blow was struck, prove beyond reasonable doubt the intention of the accused to cause death of the deceased. It is further observed and held by this Court that once these ingredients are proved, it is irrelevant whether there was a single blow struck or multiple blows.

7.4. In Ashokkumar Magabhai Vankar [Ashokkumar Magabhai Vankar v. State of Gujarat, (2011) 10 SCC 604 : (2012) 1 SCC (Cri) 397], the death was caused by single blow on head of the deceased with a wooden pestle. It was found that the accused used pestle with such force that head of the deceased was broken into pieces. This Court considered whether the case would fall under Section 302 or Exception 4 to Section 300 IPC. It is held by this Court that the injury sustained by the deceased, not only exhibits intention of the accused in causing death of victim, but also knowledge of the accused in that regard. It is further observed by this Court that such attack could be none other than for causing death of victim. It is observed that any reasonable person, with any stretch of imagination can come to conclusion that such injury on such a vital part of the body, with such a weapon, would cause death.

7.5. A similar view is taken by this Court in the recent decision in Leela Ram (supra) and after considering catena of decisions of this Court on the issue on hand i.e. in case of a single blow, whether case falls under Section 302 or Section 304 Part I or Section 304 Part II, this Court reversed the judgment and convicted the accused for the offence under Section 302 IPC. In the same decision, this Court also considered Exception 4 of Section 300 IPC and observed in para 21 as under: (SCC para 21)

"21. Under Exception 4, culpable homicide is not murder if the stipulations contained in that provision are fulfilled. They are: (i) that the act was committed without premeditation; (ii) that there was a sudden fight; (iii) the act must be in the heat of passion upon a sudden quarrel; and (iv) the offender should not have taken undue advantage or acted in a cruel or unusual manner."

21. Similarly, in the matter of ***"Bavisetti Kameswara Rao Vs. State of A.P." (2008) 15 SCC 725***, the Hon'ble Supreme Court has observed as under:-

"13. It is seen that where in the murder case there is only a single injury, there is always a tendency to advance an argument that the offence would invariably be covered under Section 304 Part II IPC. The nature of offence where there is a single injury could not be decided merely on the basis of the single injury and thus in a mechanical fashion. The nature of the offence would certainly depend upon the other attendant circumstances which would help the court to find out definitely about the intention on the part of the accused. Such attendant circumstances could be very many, they being (i) whether the act was premeditated; (ii) the nature of weapon used; (iii) the nature of assault on the accused. This is certainly not an exhaustive list and every case has to necessarily depend upon the evidence available. As regards the user of screwdriver, the learned counsel urged that it was only an accidental use on the spur of the moment and, therefore, there could be no intention to either cause death or cause such bodily injury as would be sufficient to cause death. Merely because the screwdriver was a usual tool used by the accused in his business, it could not be as if its user would be innocuous.

14. In State of Karnataka v. Vedanayagam [(1995) 1 SCC 326 : 1995 SCC (Cri) 231] this Court considered the usual argument of a single injury not being sufficient to invite a conviction under Section 302 IPC. In that case the injury was caused by a knife. The

medical evidence supported the version of the prosecution that the injury was sufficient, in the ordinary course of nature to cause death. The High Court had convicted the accused for the offence under Section 304 Part II IPC relying on the fact that there is only a single injury. However, after a detailed discussion regarding the nature of injury, the part of the body chosen by the accused to inflict the same and other attendant circumstances and after discussing clause Thirdly of Section 300 IPC and further relying on the decision in Virsa Singh v. State of Punjab [AIR 1958 Supreme Court 465], the Court set aside the acquittal under Section 302 IPC and convicted the accused for that offence. The Court (in Vedanayagam case [(1995) 1 SCC 326 : 1995 SCC (Cri) 231], SCC p. 330, para 4) relied on the observation by Bose, J. in Virsa Singh case [AIR 1958 Supreme Court 465] to suggest that: (Virsa Singh case [AIR 1958 Supreme Court 465], AIR p. 468, para 16)

"16. ... With due respect to the learned Judge he has linked up the intent required with the seriousness of the injury, and that, as we have shown, is not what the section requires. The two matters are quite separate and distinct, though the evidence about them may sometimes overlap."

The further observation in the above case were: (Virsa Singh case [AIR 1958 Supreme Court 465], AIR p. 468, paras 16 & 17)

"16. ... The question is not whether the prisoner intended to inflict a serious injury or a trivial one but whether he intended to inflict the injury that is proved to be present. If he can show that he did not, or if the totality of the circumstances justify such an inference, then, of course, the intent that the section requires is not proved. But if there is nothing beyond the injury and the fact that the appellant inflicted it, the only possible inference is that he intended to inflict it. Whether he knew of its seriousness, or intended serious consequences, is neither here nor there. The question, so far as the intention is concerned, is not whether he intended to kill, or to

inflict an injury of a particular degree of seriousness, but whether he intended to inflict the injury in question; and once the existence of the injury is proved the intention to cause it will be presumed unless the evidence or the circumstances warrant an opposite conclusion. But whether the intention is there or not is one of fact and not one of law. Whether the wound is serious or otherwise, and if serious, how serious, is a totally separate and distinct question and has nothing to do with the question whether the prisoner intended to inflict the injury in question.

17. ... It is true that in a given case the enquiry may be linked up with the seriousness of the injury. For example, if it can be proved, or if the totality of the circumstances justify an inference, that the prisoner only intended a superficial scratch and that by accident his victim stumbled and fell on the sword or spear that was used, then of course the offence is not murder. But that is not because the prisoner did not intend the injury that he intended to inflict to be as serious as it turned out to be but because he did not intend to inflict the injury in question at all. His intention in such a case would be to inflict a totally different injury. The difference is not one of law but one of fact;." (emphasis supplied) "

22. Now, we will proceed to examine the evidence led in the present case in the light of the aforementioned decisions. In fact, from the statements made by PW-6 Tarsem Singh and PW-7 Lakhwinder Singh, it is apparent that in the early morning of 04.12.2000, they alongwith Baljinder Singh, deceased had gone to ease themselves in the fields. It was pitch dark and while returning, they had met the appellant and his son, Harjit Singh. Even it is an admitted case of the prosecution that the present appellant suspected that Baljinder Singh, deceased, was having illicit relations with his daughter. When Baljinder Singh

said something in reply to Swaran Singh, appellant, there was a scuffle between both of them and the appellant had caused injury with a knife on the chest of the deceased. Even only one injury was caused and apparently, the blows were not repeated by him. Apart from that, it is also apparent that neither the appellant had taken undue advantage, nor had acted in a cruel or unusual manner. Even after causing one injury, the appellant and his son fled from the place of occurrence. Consequently, in the peculiar facts and circumstances of the present case, culpable homicide cannot be said to be a murder, as defined in Section 300 IPC and rather the case would fall under Section 304 Part I of IPC. In fact, the accused had inflicted blow with a knife and he inflicted an injury on the vital part of the deceased, consequently, it has to be presumed that causing such injury was likely to cause death. Thus, we agree with the submissions made by learned counsel for the appellant that the offence under Section 302 IPC is diluted and the appellant is ordered to be held guilty for commission of the offence punishable under Section 304 Part I IPC.

23. As a consequence of the above discussion, the appellant is ordered to be convicted for commission of the offence under Section 304 Part I IPC and the impugned judgement of conviction is liable to be modified to that extent. Now, adverting to the order of sentence, it is apparent that as per the charge-sheet dated 28.09.2001, which is part of the trial Court record, the appellant was aged about 70 years. Consequently, it can be safely presumed that as on today, the appellant is aged more than 94 years. Apart from that, the FIR (Ex.PC) in the present case was registered on 05.12.2000 and admittedly, the appellant is facing the agony of investigation, trial and appeal since the last more than 25

years. Still further, as per the custody certificate produced by learned State counsel, the appellant has already actually undergone more than 6 years and 4 months of sentence. However, his total custody including remissions, as per custody certificate produced by learned State counsel, he has undergone more than 11 years and 4 months of sentence. Consequently, keeping in view the old age of the appellant and the period undergone by him, the sentence imposed on the appellant is reduced to the period already undergone by him.

24. As an upshot of the above discussion, the impugned judgment and order dated 11.09.2003 passed by the Court of Additional Sessions Judge (Adhoc), Amritsar are modified to the extent that the appellant is ordered to be convicted for the commission of offence under Section 304 Part I IPC and is sentenced to the period already undergone by him. The amount of fine will remain the same.

25. With these modifications, the present appeal is ordered to be partly allowed. Pending application, if any, stand disposed of.

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

27. The Trial Court record be sent back.

(N.S.SHEKHAWAT)
JUDGE

(H.S.GREWAL)
JUDGE

22.01.2026
hemlata

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