



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D-484-DB-2005 (O&M)
DECIDED ON: 02.09.2026

BALJIT KAUR

.....APPELLANT

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI
HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Keshavam Chaudhri and Mr. Mudit Vohra, Advocates for
Mr. Vikram Chaudhri, Advocate
for the appellant.

Mr. Sahil Chowdhary, AAG, Punjab
for the respondent-State.

MANDEEP PANNU, J (ORAL)

1. The present appeal has been filed by the appellant against the judgment of conviction and order of sentence dated 02.06.2005, whereby appellant Baljit Kaur has been convicted for the offence punishable under Section 302 IPC and sentenced as under:-

Under Section	Imprisonment awarded	Fine	Imprisonment in default of payment of fine
Section 302 IPC	Life imprisonment	Rs.2,000/-	R.I. for 02 months

2. Briefly stated, the facts of the case are that appellant Baljit Kaur, daughter of Kashmir Singh, was married to Sarmukh Singh, deceased, Head Constable No. 1677, Police Station Majitha. Two sons were born out of the wedlock, who were aged about 9 and 7 years, respectively, at the time



of the occurrence. On the intervening night of 08/09.08.2003, Sarmukh Singh returned to his quarter No. 31, Police Lines, Dobarjee, Amritsar, at about 8.00 p.m. after performing his duty, having already consumed liquor. The family took meals together and thereafter retired to sleep at about 11.00 p.m. On the following morning, at about 6.00 a.m., Sarmukh Singh was found lying dead in the house. At that stage, no suspicion of any foul play was entertained and the cause of death was believed to be heart failure. On 09.08.2003, ASI Baj Singh of Police Station Sultanwind, along with other police officials, was present at Bus Stand Dobarjee, where Satnam Singh, son of Gajjan Singh and brother of the deceased Sarmukh Singh, met him. Satnam Singh got his statement Ex. PA recorded, which was signed by him in token of its correctness. In his statement, he disclosed that on 08.08.2003, he and his father Gajjan Singh had gone to the house of Sarmukh Singh, deceased, in Police Lines, Dobarjee, to meet him. Sarmukh Singh came to the house at about 8.00 p.m. after performing his duty. At that time, Baljit Kaur, wife of the deceased, and their children were present in the house. After taking their meals, they retired to sleep at about 11.00 p.m. On the following morning, at about 6.00 a.m., they found Sarmukh Singh lying dead. At that time, neither Satnam Singh nor his father suspected any foul play and they believed that the deceased had died due to heart failure. Consequently, no case was registered on the basis of the statement of Satnam Singh and only Daily Diary Report No. 11 was entered at the police station. The dead body was thereafter taken for post-mortem examination. The ASI conducted the inquest proceedings and prepared report Ex. PB. The dead body was entrusted to HC Avtar Singh and LC Manjit Singh for the



purpose of post-mortem. After the post-mortem examination, the clothes of the deceased were taken into possession and his viscera was preserved by the doctor and sent to the Chemical Examiner. As per report Ex. PW16/B of the Chemical Examiner, ethyl alcohol and chloro-compound group of insecticide were detected in the viscera. On the basis of the said report, Dr. Ranjit Joshi gave his opinion Ex. PW16/C on 07.10.2003, that the cause of death was the cumulative effect of ethyl alcohol and chloro-compound group of insecticide, which was sufficient to cause death in the ordinary course of nature.

3. Thereafter, the case was registered on 22.10.2003, at Police Station Sultanwind, Amritsar, on the statement of Gajjan Singh, son of Makhan Singh, which was recorded by SHO Gian Singh. It was stated by Gajjan Singh that his son Sarmukh Singh, deceased, who at the time of the occurrence was working as a Head Constable in the Police Department and was posted in Police Lines, Majitha, was married to Baljit Kaur. About six months prior to the occurrence, Daljit Kaur, the co-accused and sister of the maternal uncle of Baljit Kaur, had started living with them in their quarter No. 31, Police Lines, Dobarjee, as she was undergoing a DMLT course at Amritsar. According to Gajjan Singh, after Daljit Kaur started residing with Sarmukh Singh and Baljit Kaur, Sarmukh Singh used to complain to him that Baljit Kaur no longer cared for him and that both Baljit Kaur and Daljit Kaur used to remain away from the house for several nights. Whenever he objected to their conduct, they allegedly extended threats to him. Sarmukh Singh further told Gajjan Singh that he suspected that Baljit Kaur and Daljit Kaur had illicit relations with Manjit Singh @ Manna, a resident of Wadala



and son of the sister of the mother of Baljit Kaur. He also expressed his apprehension that he might be poisoned to death or might otherwise be got murdered by them. Gajjan Singh further stated that, on several occasions, he had gone to the house of Sarmukh Singh, where Kashmir Singh, father of Baljit Kaur, and Kulbir Singh, her maternal uncle, were called to make Baljit Kaur understand and to advise her regarding her conduct. On such occasions, Baljit Kaur allegedly sought pardon from Sarmukh Singh and promised to behave properly in future. Sarmukh Singh had also informed Gajjan Singh that in April, 2003, he had taken a loan of ₹4,18,000/- from the bank for construction of a house and that a sufficient amount out of the said money had been given by Baljit Kaur to her father Kashmir Singh, who was not returning the same. According to Sarmukh Singh, this had resulted in continuing disputes and discord in the family. Gajjan Singh further stated that his daughter Sukhwant Kaur had also told him about the aforesaid circumstances and that Sarmukh Singh had spoken to her in this regard. On 09.08.2003, at about 8.00 a.m., a telephone call was received at his house from Kashmir Singh informing him about the death of Sarmukh Singh during the preceding night. Thereafter, Gajjan Singh and other family members went to the Government Quarter of Sarmukh Singh in Police Lines, Dobarjee, where the post-mortem examination was conducted and, subsequently, the dead body was cremated. It was thereafter, on 22.10.2003, that Gajjan Singh made his statement Ex. PW7/A before SHO Gian Singh, on the basis of which the formal FIR Ex. PW9/A came to be registered.

4. On 27.10.2003, accused Kashmir Singh, Daljit Kaur and Baljit Kaur were arrested. During investigation, ASI Harvinder Singh recorded the



statements of Paramjit Kaur, Sarbjit Kaur, Parminder Kaur, Sarabjit Kaur, Kashmir Singh, Bir Singh, Nishan Singh. Gurpreet Singh, resident of Koha, District Gurdaspur, was also joined in the investigation. It was revealed by him that after the bhog ceremony of Sarmukh Singh, Baljit Kaur and Daljit Kaur had approached him at his house and admitted before him that they had administered poisonous medicine to the deceased with the intention of causing his death. They requested him to help them in effecting a compromise with Gajjan Singh, he being his relative. Thereafter, he contacted Gajjan Singh, but Baljit Kaur and Daljit Kaur did not turn up. After completion of investigation, challan was presented before the competent Court and the case was committed to the Court of Sessions, wherein all the three accused were charge-sheeted for the offence punishable under Section 302 read with Section 120-B of the Indian Penal Code.

5. The prosecution, in order to prove its case, examined PW1 ASI Baj Singh, who recorded the inquest proceedings and the statements under Section 175 Cr.P.C. on 09.08.2003. PW2 Paramjit Kaur, PW3 Parminder Kaur, PW4 Sarabjit Kaur and PW5 C. Kashmir Singh, all neighbours, were examined to prove the alleged illicit relations of the appellant with Manjit Singh alias Manna, as also the alleged quarrels, and thus to establish the motive. PW6 C. Manjit Singh, another neighbour, was examined as a formal witness and as the custodian of the sealed viscera between the post-mortem examination and its deposit with the Chemical Examiner. PW7 Gajjan Singh, father of the deceased, lodged the FIR and sought to prove the alleged motive and conspiracy. PW8 Kishan Singh, brother of the deceased, was examined to corroborate the version of PW7. PW9 is a formal witness



who proved the FIR. PW10 ASI Harvinder Singh deposed regarding the arrest of the appellant. PW11 Jaswant Singh, Cashier, Punjab & Sind Bank, proved on record the statement of the bank account of the deceased as Ex.PW11/A. PW12 Gurpreet Singh, brother of the deceased, was examined to prove the alleged motive relating to the money/loan amount withdrawn by the deceased. PW13 Inspector Gian Singh, the Investigating Officer, deposed regarding the investigation conducted by him and proved the relevant documents prepared during the course of investigation. PW14 Darshan Singh is the alleged recipient of the extra-judicial confession purportedly made by the appellant and the co-accused. PW15 C. Bir Singh, a neighbour, was examined to prove the alleged telephonic conversation overheard by him between the appellant and Manjit Singh alias Manna, with whom she was allegedly having illicit relations. PW16 Dr. Rajiv Joshi, Medical Officer, was examined to prove the post-mortem examination and the cause of death. He proved the post-mortem report as Ex.PW/16/A, the report of the Chemical Examiner as Ex.PW/16/B and his subsequent opinion regarding the cause of death as Ex.PW/16/C. As per the said opinion, the cause of death was the cumulative effect of ethyl alcohol and chloro-compound group of insecticide, which was sufficient to cause death in the ordinary course of nature.

6. Thereafter, statements of the accused were recorded under Section 313 Cr.P.C. The appellant, in her defence, examined DW1 Kanwaljit Singh, son of the deceased and the appellant, who sought to establish that his father was addicted to liquor and had consumed liquor on the day of the occurrence; that he had returned home on a rickshaw and slept beside his



father on that night. His parents never had any dispute. The appellant also examined DW2 Makhan Singh, SP(D), Amritsar, who had conducted the departmental inquiry entrusted to him by the DIG, Amritsar. He deposed that, as per the inquiry, Kashmir Singh, Gurmit Singh and Manjit Singh were found innocent and that Gajjan Singh and Satnam Singh had made statements before him which differed from their earlier versions.

7. Learned trial Court, after hearing the learned APP for the State and the learned defence counsel, convicted appellant Baljit Kaur for the offence punishable under Section 302 IPC, whereas the other two accused, namely Kashmir Singh and Daljit Kaur, were acquitted. The trial Court mainly relied upon the medical and chemical evidence establishing that the deceased had died due to the cumulative effect of ethyl alcohol and chloro-compound insecticide and the presence of Baljit Kaur in the house on the night of the occurrence in establishing that it was Baljit Kaur who administered poison. It also held that the evidence regarding the illicit relationship and the resulting disputes, coupled with the financial dispute concerning the loan amount, furnished the motive against Baljit Kaur. The learned trial Court further dealt with the delay in registration of the FIR and held that the same was not material in the facts and circumstances of the case. It noticed that, initially, the death was believed to be natural and Satnam Singh had stated on 09.08.2003 that he suspected no foul play. After receipt of the report of the Chemical Examiner and the medical opinion regarding the cause of death, the statement of Gajjan Singh was recorded, on the basis of which the FIR was registered on 22.10.2003. The trial Court, therefore, held that the delay stood sufficiently explained and could not by



itself discredit the prosecution case. At the same time, the alleged extra-judicial confession and the contradictory testimony of C. Bir Singh were not found worthy of reliance.

8. Feeling aggrieved by the judgment of conviction and order of sentence, the present appeal has been preferred by Baljit Kaur, as detailed above.

9. Learned counsel for the appellant, at the very outset, argued that the death of the deceased in the present case has not been proved to be homicidal. It was submitted that the medical and chemical evidence merely establishes the presence of ethyl alcohol and chloro-compound group of insecticide, but does not establish that the same was administered by the appellant or that the death was necessarily homicidal. Learned counsel further argued that the FIR was lodged after an unexplained delay of 74 days. Even if the receipt of the chemical examiner's report is taken as the trigger for registration of the case, the FIR was still lodged about 15 days thereafter, without any satisfactory explanation. Such unexplained delay, according to learned counsel, provided sufficient opportunity for deliberation and introduction of an entirely new and contradictory version, different from the version given by the same persons on the very first date.

10. It was next argued that the foundational facts necessary for invoking Section 106 of the Evidence Act were never established by the prosecution and that the entire burden of proving the manner in which the deceased came to consume the poisonous substance has impermissibly been shifted upon the appellant. Learned counsel pointed out that the earliest statements, including the inquest proceedings and statements recorded under



Section 175 Cr.P.C., materially contradict the subsequent prosecution version regarding the persons present in the house during the relevant night. It was further submitted that PW2 to PW6, who were independent neighbours/formal witnesses, did not support the prosecution case and were declared hostile, whereas PW7 Gajjan Singh, PW8 Kishan Singh and PW12 Gurpreet Singh, being close relatives of the deceased, alone attempted to support the prosecution case. Their testimony, however, suffers from material inconsistencies, omissions and improvements, particularly with regard to the alleged motive, the presence of the accused and the circumstances surrounding the death. Learned counsel also relied upon the testimony of DW1 Kanwaljit Singh, son of the deceased and the appellant, who specifically stated that there was no dispute between his parents and that the deceased had consumed liquor on the day of occurrence and had returned home on a rickshaw. It was argued that this material defence evidence was brushed aside without proper consideration. Learned counsel further contended that the alleged extra-judicial confession and other circumstances relied upon by the prosecution are wholly unreliable and insufficient to complete the chain of circumstances. It was lastly argued that the charge against the appellant was one under Section 302 read with Section 120-B IPC, and the two alleged co-conspirators having been acquitted on the same evidence, the conviction of the appellant on the very same evidence cannot be sustained. According to learned counsel, at the highest, the evidence gives rise to two reasonably possible views, one pointing towards homicide and the other towards accidental ingestion or



some other possibility, and in such circumstances the view favourable to the accused must necessarily prevail.

11. Learned State counsel, on the other hand, opposed the appeal and supported the judgment of conviction and order of sentence passed by the learned trial Court. It was argued that the death of the deceased due to poisoning stands established from the medical and chemical evidence on record. The learned State counsel submitted that the initial proceedings treated the death as natural only because there were no visible external injuries and the family had no immediate reason to suspect foul play. The true nature of the death came to light upon receipt of the report of the Chemical Examiner, which detected the presence of insecticide poison, whereafter the medical opinion of PW16 Dr. Rajiv Joshi confirmed that the cause of death was the cumulative effect of ethyl alcohol and chloro-compound group of insecticide. Thus, the delay in registration of the FIR was *bona fide* and stood satisfactorily explained by the subsequent discovery of the poisoning.

12. It was further argued that the deceased died of poisoning inside his house during the night and the appellant, being his wife, was admittedly present in the house and was in a position to explain the circumstances in which the poisonous substance entered the deceased's system. Learned State counsel invoked Section 106 of the Evidence Act and submitted that, once the prosecution had established the foundational facts, the circumstances relating to the administration of poison were especially within the knowledge of the appellant. However, she had failed to furnish any plausible explanation in her statement under Section 313 Cr.P.C. as to how the



insecticide entered the deceased's system. Her silence and failure to explain the incriminating circumstances, according to learned State counsel, furnished an additional link in the chain of circumstances.

13. Learned State counsel further contended that the motive stood established from the evidence of PW7 Gajjan Singh and PW12 Gurpreet Singh, coupled with the documentary evidence produced through PW11 Jaswant Singh, Cashier, Punjab and Sind Bank. It was submitted that the deceased had withdrawn a sum of Rs.2,20,000/- on 02.07.2003 and the evidence of the prosecution witnesses established that the said amount was handed over by the appellant to her father Kashmir Singh, which resulted in serious tension, disputes and quarrels between the deceased and the appellant. The alleged illicit relationship and consequent matrimonial discord were also sought to be established through the prosecution evidence.

14. As regards the defence evidence, learned State counsel argued that the testimony of DW1 Kanwaljit Singh, the minor son of the deceased and the appellant, was not reliable, being that of a child who was residing under the continuous care and influence of the appellant. His statement regarding the deceased having consumed liquor could not explain the presence of the chloro-compound insecticide detected by the Chemical Examiner. The evidence of DW2 Makhan Singh, SP(D), who had conducted a departmental enquiry, was also contended to be of no assistance to the appellant, as the opinion expressed in such departmental enquiry could not prevail over the cogent medical, scientific and other evidence led before the trial Court.



15. Learned State counsel lastly submitted that the alleged co-conspirators having been acquitted would not, by itself, entitle the appellant to acquittal, as the evidence against each accused had to be assessed independently. According to the learned State counsel, the circumstances proved on record, when considered cumulatively, form a complete chain pointing towards the guilt of the appellant and exclude the hypothesis of her innocence. The learned trial Court had, therefore, rightly appreciated the evidence and convicted the appellant under Section 302 IPC, and no interference was warranted in appeal.

16. We have heard learned counsel for the appellant and learned State counsel and have gone through the record carefully.

17. Learned counsel for the appellant, at the outset, assailed the finding of the learned trial Court regarding the nature and cause of death and submitted that the prosecution has failed to establish that the death of Sarmukh Singh was homicidal. It was argued that merely because ethyl alcohol and a chloro-compound group of insecticide were detected in the viscera, it cannot, by itself, be concluded that the deceased was administered poison by the appellant. It was further submitted that the initial version of the prosecution itself was that the deceased had died a natural death due to heart failure and that the statements recorded during the initial proceedings under Section 174 Cr.P.C. did not disclose any suspicion of foul play. Learned counsel, therefore, contended that the subsequent medical opinion could at best establish the presence of certain substances in the body, but could not establish the manner in which they came to be consumed or that the death was homicidal.



18. The submission, however, does not merit acceptance. The nature and cause of death stands clearly established from the medical and scientific evidence brought on record. The post-mortem examination of the deceased was conducted by PW16 Dr. Rajiv Joshi, and the post-mortem report was proved on record as Ex.PW16/A. At the time of post-mortem, the viscera of the deceased was preserved and sealed and was thereafter sent for chemical examination. The Chemical Examiner's report, proved as Ex.PW16/B, specifically recorded the presence of ethyl alcohol and a chloro-compound group of insecticide in the viscera. Upon receipt of the said report, PW16 Dr. Rajiv Joshi gave his subsequent opinion, proved on record as Ex.PW16/C, regarding the cause of death. The doctor opined that the death was due to the cumulative effect of ethyl alcohol and chloro-compound group of insecticide, which was sufficient to cause death in the ordinary course of nature. Thus, the final medical opinion was not based upon a mere suspicion or conjecture but was rendered after consideration of the post-mortem findings and the report of the Chemical Examiner.

19. Significantly, the evidence regarding preservation, sealing and transmission of the viscera also lends assurance to the scientific conclusion. PW6 C. Manjit Singh, who remained the custodian of the sealed viscera after the post-mortem examination and till its deposit with the Chemical Examiner, deposed regarding the safe custody and transmission of the sealed parcels. There is no material on record to suggest any tampering with the viscera or the sealed parcels. The scientific report, therefore, remains unimpeached. The initial opinion of natural death, formed before the availability of the chemical examination report, cannot prevail over the



subsequent scientific evidence which specifically established the presence of insecticide in the body and was followed by the final medical opinion of the doctor.

20. The fact that the deceased had consumed alcohol does not furnish an alternative explanation for the death. The medical opinion specifically attributes the death to the cumulative effect of ethyl alcohol and the chloro-compound group of insecticide and records that the latter was sufficient to cause death in the ordinary course of nature. Consequently, the initial belief that the deceased had died a natural death due to heart failure stood displaced by the subsequent scientific and medical evidence. The mere absence of external injuries is also of no consequence in a case of poisoning, where the fatal substance may cause death without leaving any external mark of violence.

21. Thus, on a careful consideration of the post-mortem report Ex.PW16/A, the Chemical Examiner's report Ex.PW16/B, and the subsequent opinion of PW16 Dr. Rajiv Joshi Ex.PW16/C, duly read with the evidence concerning preservation and transmission of the viscera, this Court has no hesitation in holding that the death of Sarmukh Singh was unnatural and caused by poisoning, and the finding of the learned trial Court that the death was homicidal is liable to be affirmed. The first contention of learned counsel for the appellant, therefore, fails.

22. The next question which arises for determination is as to who administered the poisonous substance to the deceased. The prosecution case is that the appellant Baljit Kaur, being the wife of the deceased, in connivance with the co-accused Kashmir Singh and Daljit Kaur,



administered the poisonous substance to Sarmukh Singh, resulting in his death. Since there is no direct eyewitness to the alleged administration of poison, the prosecution seeks to establish this circumstance through a chain of circumstantial evidence, consisting principally of the alleged motive arising out of the matrimonial discord and financial transactions, the presence of the appellant in the house, the alleged illicit relationship, the alleged extra-judicial confession and the conduct of the accused. It is, therefore, necessary to examine whether these circumstances, individually or cumulatively, are proved beyond reasonable doubt and form an unbroken chain pointing only towards the guilt of the appellant.

23. The first and foremost circumstance relied upon by the prosecution is the alleged motive. The prosecution has attempted to establish that the deceased was suspicious of the character of Baljit Kaur and Daljit Kaur and that there used to be quarrels between the deceased and the appellant. However, the witnesses cited to establish this aspect do not furnish dependable evidence. PW2, PW3, PW4 and PW5, who were the neighbours and were joined during investigation to ascertain the family affairs of the deceased, did not support the prosecution version and were declared hostile. Thus, the independent witnesses from the neighbourhood, who would have been the natural persons to speak about the alleged quarrels, suspicion regarding character or strained relations between the spouses, have not corroborated the prosecution case. Their failure to support the prosecution is significant because the prosecution case regarding motive rests substantially upon what was allegedly known to persons residing in the neighbourhood.



24. The prosecution has thereafter relied upon PW7 Gajjan Singh, father of the deceased, PW8 Nishan Singh, brother of the deceased, and PW12 Gurpreet Singh, also brother of the deceased. Their evidence has to be examined with due caution, particularly when the independent neighbours have not supported the prosecution. PW7 has attempted to attribute matrimonial discord to the alleged relationship of Baljit Kaur with Manjit Singh alias Manna. PW8 has sought to corroborate the version of his father, while PW12 has been relied upon regarding the financial transaction. However, their testimony does not furnish a consistent and convincing account of any immediate motive for the deceased being poisoned by the appellant.

25. The testimony of PW15 C. Bir Singh, who was projected as a neighbour and an alleged witness of the telephonic conversations, also does not advance the prosecution case. In his examination-in-chief, he stated that the family of the deceased used to use his telephone and that Baljit Kaur used to come to his house to use the telephone and talk with Manjit Singh alias Manna. At the same time, he specifically stated that he had not heard the telephonic conversation between Baljit Kaur and Manjit Singh and was accordingly declared hostile. In cross-examination, although he stated that Manjit Singh alias Manna used to visit the house of the deceased and that Baljit Kaur and Daljit Kaur used to talk to him on his telephone, he also admitted several facts which rendered his testimony contradictory. He ultimately stated that he had not himself seen the deceased and Baljit Kaur quarrelling and had only heard about such quarrels. Thus, his evidence cannot be treated as establishing either the alleged illicit relationship or the



existence of such grave matrimonial discord as could furnish a motive for murder.

26. The prosecution has also relied upon the bank account statement proved through PW11 Jaswant Singh, Cashier, Punjab and Sind Bank. The statement shows certain withdrawals from the account of the deceased, including the withdrawal of Rs.2,20,000/- on 02.07.2003. Even assuming that the amount was subsequently given by Baljit Kaur to her father Kashmir Singh and that Kashmir Singh did not repay it, such evidence at the highest establishes a financial transaction. It does not establish that the transaction furnished the motive for administering poison nearly thereafter, much less that the appellant actually administered the poison. The financial evidence, therefore, cannot substitute the missing link between motive and the commission of the offence.

27. The prosecution has further placed considerable reliance upon the alleged extra-judicial confession said to have been made by the appellant and Daljit Kaur before PW14 Darshan Singh. According to PW14, after the bhog ceremony of Sarmukh Singh, the accused approached him and disclosed that they had caused the death of Sarmukh Singh by administering poison and requested him to intervene with Gajjan Singh for a compromise. This circumstance, however, suffers from serious infirmities. PW14 is himself related to the family of the deceased, being the son of the sister of the mother of the deceased. More importantly, the alleged confession is not disclosed in the initial version given by Gajjan Singh to the police. The statement of Gajjan Singh, Ex.PW7/A, was recorded on 22.10.2003, yet there is no mention therein of any such disclosure having been made before



Darshan Singh after the bhog ceremony. If such a startling and incriminating confession had in fact been made to PW14 shortly after the bhog ceremony, there is no satisfactory explanation as to why this important fact was not disclosed when the complainant's statement was recorded and the FIR came to be registered. The alleged extra-judicial confession, therefore, does not inspire confidence and cannot safely be made the basis of conviction.

28. The prosecution case is further weakened by the initial version furnished immediately after the death. On 09.08.2003, ASI Baj Singh recorded the inquest proceedings and statements under Section 175 Cr.P.C. The version then furnished was that the deceased had returned home, taken his meal and gone to sleep, and was found dead in the morning, with no suspicion of foul play and with the death being treated as natural. Significantly, the subsequent prosecution story involving poisoning, motive, conspiracy and the alleged participation of the appellant and the co-accused does not find place in this earliest version. The statement of Satnam Singh, Ex.PA, recorded on the same day, and the version of Gajjan Singh in the inquest proceedings were consistent with the death having been considered natural at that stage. The subsequent emergence of an altogether different version assumes considerable significance in a case based entirely upon circumstantial evidence.

29. Regarding delay in lodging the FIR, Hon'ble Supreme Court in ***"State of Himachal Pradesh Vs. Gian Chand" 2001(2) RCR(Criminal) 666***, has held that *"If the prosecution fails to satisfactorily explain the delay and there is possibility of embellishment in prosecution version on account of such delay, the delay would be fatal to the prosecution. However, if the*



delay is explained to the satisfaction of the Court, the delay cannot by itself be a ground for disbelieving and discarding the entire prosecution case". In the present case, the delay of 74 days in registration of the FIR is, therefore, not a mere technical circumstance. The death occurred on 09.08.2003 whereas the FIR was registered only on 22.10.2003. The explanation offered by the prosecution is that the true nature of the death came to light after receipt of the Chemical Examiner's report. Even if the receipt of that report on 07.10.2003 is taken as the point from which suspicion could reasonably arise, the FIR was still registered about 15 days thereafter. There is no satisfactory explanation for this further delay. More importantly, the delay is accompanied by a material change in the prosecution version and what was initially represented as a natural death, with no allegation of foul play, was subsequently converted into a case of homicidal poisoning involving the appellant and two other persons. The delay, in these circumstances, assumes significance not because delay by itself is fatal, but because it creates a reasonable possibility of deliberation, consultation and introduction of an improved version.

30. The prosecution seeks to rely upon Section 106 of the Evidence Act on the ground that the appellant, being the wife of the deceased and allegedly present in the house during the relevant night, was specially in a position to explain how the poison entered the deceased's body. There can be no quarrel with the proposition that facts especially within the knowledge of an accused may require an explanation from him. However, Section 106 does not relieve the prosecution of its primary obligation to establish the foundational facts constituting the offence. The burden of proving that the



appellant administered the poisonous substance cannot be shifted to her merely because she happened to be present in the house. Before Section 106 of the Evidence Act can operate against an accused, the prosecution must first establish circumstances from which a reasonable inference of her involvement arises.

31. In the present case, the foundational circumstance itself is seriously doubtful. The prosecution has not established by reliable evidence that the appellant was the only person present with the deceased during the relevant period. The earliest statements regarding the persons present in the house are themselves inconsistent with the subsequent prosecution version. The very fact which the prosecution seeks to place within the special knowledge of the appellant, namely, the circumstances in which the deceased consumed the poisonous substance, has not been preceded by reliable evidence excluding other possibilities. Section 106 of the said Act cannot be used to fill this fundamental gap in the prosecution case. An accused cannot be convicted merely because she has not furnished an explanation which the prosecution was itself required to establish through affirmative evidence. For this reliance has been placed upon the judgment of Hon'ble Supreme Court in ***'Dhanapal vs. State by Public Prosecutor, Madras', 2010 (5) RCR (Criminal) 353***, wherein it has been held in para No.20 of the judgment that *"According to the fundamental principles of the Evidence Act, it is for the prosecution to have proved its own case"*.

32. The statement of DW1 Kanwaljit Singh, son of the deceased and the appellant, also assumes relevance in this context. He stated that his father was accustomed to consuming liquor, that he had taken liquor on the



day of occurrence, that he returned home on a rickshaw and that he slept beside his father during the night. He further stated that there was no dispute between his parents. The fact that the witness was a child at the relevant time may require his evidence to be examined with caution, but that by itself is no ground to discard it altogether. His testimony was required to be considered along with the other evidence, particularly because it directly bears upon the circumstances in which the deceased returned home and the nature of the relationship between the deceased and the appellant. The mere presence of a defence witness cannot be treated as an explanation invented by the accused when the prosecution evidence itself suffers from material deficiencies.

33. Likewise, the evidence of DW2 Makhan Singh, SP(D), Amritsar, regarding the departmental enquiry cannot by itself determine the guilt or innocence of the appellant. Nevertheless, the enquiry material could not simply be brushed aside without examining its relevance to the contradictions in the prosecution version. DW2 deposed that, in the departmental enquiry entrusted by the DIG, Amritsar, Kashmir Singh, Gurmit Singh and Manjit Singh were found innocent and that Gajjan Singh and Satnam Singh had made statements differing from their earlier versions. Though the findings of such departmental enquiry are not binding upon a criminal court, the evidence regarding the changing versions of the witnesses is relevant insofar as it bears upon their credibility. The prosecution was required to independently dispel those contradictions, which it has failed to do satisfactorily.

34. The conduct attributed to the appellant also does not complete the chain of circumstances. There is no recovery of the poisonous substance



from her possession, no evidence that she purchased or procured the insecticide, no eyewitness to its administration and no scientific evidence connecting the appellant with the poison detected in the viscera. The chemical evidence establishes the cause of death, but it does not establish the author of the poisoning. This distinction is crucial. Proof that the deceased died of poisoning is one link and proof that the appellant administered that poison is a separate and indispensable link which the prosecution was required to establish beyond reasonable doubt.

35. It is also of considerable significance that the charge was framed against the appellant along with Kashmir Singh and Daljit Kaur for the offence under Section 302 read with Section 120-B IPC, alleging a common conspiracy. The very evidence relied upon to establish the alleged conspiracy and motive against the co-accused was not found sufficient by the learned trial Court to convict them, and both were acquitted. Once the alleged conspirators have been acquitted on the same set of circumstances, the prosecution cannot selectively rely upon those very circumstances to sustain the conviction of the appellant unless there is some distinct and reliable evidence specifically connecting her with the homicidal act. No such independent link has been established in the present case. The acquittal of the co-accused does not mechanically entitle the appellant to acquittal, but it certainly requires the Court to examine whether the remaining evidence against her is capable of standing independently. On such examination, it is not. Thus, when the evidence is considered cumulatively, the prosecution has succeeded in proving that the death was an unnatural death caused by poisoning, but it has failed to establish beyond reasonable doubt that the



poisonous substance was administered by the appellant. The alleged motive is not proved through reliable independent evidence, the neighbours have not supported the prosecution, the evidence of the close relatives contains material infirmities and improvements, the alleged telephonic conversation does not stand proved, the extra-judicial confession is surrounded by serious doubt and is contradicted by the subsequent conduct and earliest version, the unexplained delay in lodging the FIR assumes significance in the backdrop of the changed prosecution story, and Section 106 of the Evidence Act cannot be invoked to supply the missing link in the prosecution case. The defence evidence, though not required to prove innocence, further renders the prosecution hypothesis less certain.

36. The law is well settled that in a case resting upon circumstantial evidence, every circumstance relied upon by the prosecution must be firmly established and all the circumstances taken together must form a complete chain which excludes every reasonable hypothesis consistent with the innocence of the accused. In the present case, the chain remains incomplete. The circumstances proved on record are also reasonably capable of more than one interpretation, and where two views are reasonably possible, the one favourable to the accused must necessarily prevail.

37. The learned trial Court, in the considered view of this Court, fell into error in treating the proof of the cause of death as proof of the authorship of the crime. While the medical and chemical evidence undoubtedly establish that Sarmukh died on account of the cumulative effect of ethyl alcohol and chloro-compound group of insecticide, the said evidence does not connect the appellant with the administration of the



poisonous substance. The learned trial Court further placed undue reliance upon the evidence regarding the alleged motive, particularly the alleged illicit relationship and the financial transaction, despite the fact that the independent neighbours, PW2 to PW6, did not support the prosecution and several of them were declared hostile. The portions of their testimony elicited in cross-examination could not, without proper scrutiny, be treated as substantive corroboration of the prosecution case. The testimony of PW7, PW8 and PW12, being that of close relatives of the deceased, required careful and cautious evaluation, particularly in view of the material contradictions and omissions emerging from their earlier versions. The learned trial Court also erred in drawing an adverse inference against the appellant under Section 106 of the Evidence Act without first establishing the foundational circumstances connecting her with the administration of poison. The burden under Section 106 of the said Act could not be utilised to fill the fundamental gap in the prosecution case. Further, the delay of 74 days in registration of the FIR, and even the unexplained period of about 15 days after receipt of the Chemical Examiner's report, was not given its due significance, particularly when the earliest version treated the death as natural and the subsequent version introduced allegations of poisoning, motive and conspiracy. The alleged extra-judicial confession was also accepted without adequately considering the delay in its disclosure and the contradictions surrounding the same. Most importantly, the learned trial Court failed to appreciate that the very circumstances relied upon against the appellant had not been found sufficient to establish the guilt of the alleged co-conspirators, who were acquitted. In the absence of any direct evidence,



recovery, scientific material connecting the appellant with the poison, or any other circumstance completing the chain, the learned trial Court effectively converted suspicion arising from the appellant’s presence in the house and the alleged motive into proof of guilt. Such an approach falls short of the standard required in a case resting exclusively upon circumstantial evidence, where every link must be firmly established and the complete chain must exclude every reasonable hypothesis consistent with the innocence of the accused.

38. Consequently, although the cause of death stands established as homicidal poisoning, the prosecution has failed to prove beyond reasonable doubt that the appellant Baljit Kaur administered the poison to the deceased or participated in any conspiracy for causing his death. The conviction of the appellant under Section 302 IPC, therefore, cannot be sustained. The appeal is hereby allowed and the judgment of conviction and order of sentence passed by the learned trial Court against the appellant are set aside. The appellant is accordingly acquitted of the charge under Section 302 IPC by extending to her the benefit of doubt.

39. All pending miscellaneous application(s), if any, stands disposed of.

(ARCHANA PURI)
JUDGE

(MANDEEP PANNU)
JUDGE

02.09.2026
Poonam Negi

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>