



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal Nos.664-665 / 2024
(Arising out of Special Leave to Appeal (Crl.) Nos.1852-1853/ 2024)
(Arising out of Diary No. 15720/2020)

State of PunjabAppellant(s)
versus
Gurpreet Singh & Ors.Respondent(s)

JUDGEMENT

SURYA KANT, J.

Delay condoned.

2. Leave granted.
3. These appeals are directed against the judgment dated 05.12.2019, passed by the High Court of Punjab and Haryana at Chandigarh (**hereinafter, ‘High Court’**), allowing Criminal Appeal, CRA-D-1606-DB-2015 (O&M) filed by Gurpreet Singh, Kashmira Singh and Jagdeep Singh (Respondent Nos. 1-3) and Criminal Revision, CRR-2942-2015 (O&M) filed by Harpreet Singh against their conviction awarded by the Learned Additional Sessions Judge, Ludhiana (**hereinafter, ‘Trial Court’**) vide judgments dated 29.09.2015 and 02.07.2015 respectively. The High Court has, through the impugned judgment, acquitted all the four Respondents of the charges under Section 302 read with Section 34 of the Indian Penal Code, 1860 (**hereinafter, ‘IPC’**).

FACTS:

4. At this juncture, it is imperative to delve into the factual matrix to set out the context of the present proceedings.

5. FIR No. 100 dated 18.07.2012, was registered at Police Station City Jagraon, District Ludhiana Rural, under Sections 302 and 34 of IPC and Sections 25, 27, 54, and 59 of the Arms Act, 1959. The subject FIR was lodged on the statement of Gursewak Singh (P.W.2), the Complainant, who stated that his elder daughter, Kirandeep Kaur, was married to Gurpreet Singh (**main accused**) in the year 2009 and they got divorced in the year 2011. On 18.07.2012, at about 1.30 p.m., the Complainant was taking rest in his bedroom while his wife, Amarjit Kaur, and their son and younger daughter were on the first floor. At the exact time of the incident, the Complainant received information from Amarjit Kaur, who was standing on the stairs, that someone was calling for him. The Complainant opened the drawing-room door to check the main gate, wherein he saw Gurpreet Singh, accompanied by an unidentified individual, who had entered the porch by jumping the compound wall. Gurpreet Singh was armed with a pistol, while the unidentified person held a hockey stick. No sooner did the Complainant open the drawing-room door Gurpreet Singh shot at the Complainant's wife, Amarjit Kaur, under the right ear from a close range. When the Complainant accessed the main gate, he saw brothers of Gurpreet Singh, namely, Harpreet Singh and Joga Singh (sons of Puran Singh r/o Bhodipura), standing there besides an Innova car. The Complainant shouted at them and tried to catch hold of the assailants, but they crossed the main gate and fled in the Innova car. The reason for enmity, according to the Complainant, was that the daughter of the Complainant, Kirandeep Kaur, had cleared the IELTS exam and had shifted to Australia. Gurpreet Singh also wanted to settle in Australia, but due to their divorce, his dreams were shattered,

and he blamed Amarjit Kaur, the wife of the Complainant to be responsible for the divorce.

6. The prosecution examined as many as 10 witnesses to bring the guilt home, including Gursewak Singh, P.W.2 (the Complainant) and his daughter, Harmandeep Kaur (P.W.3), both eyewitnesses. The entire case of the prosecution is based upon the version of these two eyewitnesses, who claimed that the murder took place in the broad daylight in front of them.

7. The Trial Court, having found the version of the two eyewitnesses to be trustworthy, which was duly corroborated by the medical evidence and the recovery of the weapon, held Gurpreet Singh guilty of the offence under Section 302 IPC, whereas his co-accused were held guilty for the offence under Section 302/34 IPC. All of them were sentenced to undergo life imprisonment.

8. The High Court, vide the impugned judgment, disbelieved the version of Gursewak Singh (P.W.2, the Complainant) and his daughter, Harmandeep Kaur (P.W.3), primarily for the reasons that (i) Gursewak Singh (P.W.2) had gone for the medical checkup of his son to a hospital in Jagraon. It was not possible for him to reach back Doraha at the time of occurrence, as the distance was of about 70 kms. (ii) Gursewak Singh (P.W.2) failed to disclose the names of the co-accused, Harpreet Singh and Kashmiri Singh, in his first version, and he is stated to have re-collected their names after about five hours. (iii) It is doubtful that Harmandeep Kaur (P.W.3) would be attending her classes from her parental house rather than from her in-laws' house since she got married only a few months ago. (iv) No Test Identification Parade was conducted. (v) There is a great mystery about the nomination of Jagdeep Singh, Harpreet Singh S/o Veer Singh and Kashmiri Singh because, as per the testimony of the eyewitnesses, they were never named before

the police, and even the Investigating Officer has also not disclosed as to how these persons have been nominated as accused. (vi) These discrepancies, inconsistencies and unexplained circumstances go to the root of the case and severely dent the credibility of Gursewak Singh (P.W.2) and his daughter.

9. The High Court, thus, viewed that once the defence is able to cast a reasonable doubt on the story of the prosecution, the necessary consequence will be the acquittal of the accused.

10. Discontented with the acquittal of the accused persons, the State of Punjab is in appeal before us.

CONTENTIONS OF PARTIES

11. Mr. Gaurav Dhama, learned Additional Advocate General for the State of Punjab, argued that the High Court erred in acquitting the accused, by setting aside the well-reasoned findings by the Trial Court, which categorically stated that based on the direct and unequivocal statements provided by both the witnesses (P.W.2 and P.W.3), it was conclusively proved that Gurpreet Singh fired shots at Amarjit Kaur. The Complainant and the eyewitness, having lost a close family member in the incident, had no motive to protect the real accused or falsely implicate the innocent persons of committing the crime. Mr. Dhama vehemently contended that Gurpreet Singh harboured suspicions that the deceased played a big role in his divorce. He kept holding a grudge against her, which served as the motive for the murder. Additionally, the testimonies of Gursewak Singh (P.W.2) and his daughter, Harmandeep Kaur (P.W.3), distinctly indicated that soon after Amarjit Kaur was shot, she was discovered to be dead, prompting them to alert the authorities. Furthermore, P.W.3 provided a clear and unequivocal identification of the accused-Respondents as the assailants at the police station,

which was substantiated by a proper identification in the court.

12. *Per contra*, Mr. Karan Dewan, learned counsel on behalf of the Respondents, urged that this Court, in exercise of the power under Article 136 of the Constitution, should be extremely cautious in interfering with an order of acquittal passed by the High Court. Further, the offence took place in the broad daylight, it is quite strange that none of the neighbours witnessed the occurrence. He maintains that the High Court has rightly cast doubt on the prosecution's case as the testimony of P.W.2 and P.W.3 does not inspire confidence. He also contended that P.W.3 was a married girl, and it was highly unlikely that she was attending classes from her paternal home despite getting married only a few months ago.

ANALYSIS

13. Having heard the learned Counsel for the parties at a considerable length, we find that two questions fall for our consideration in the present appeal; (i) whether a case is made out for interference by this Court under Article 136; (ii) whether the acquittal of Respondents is sustainable, if the answer of the first question is in the affirmative.

SCOPE OF INTERFERENCE

14. Learned counsel for the Respondents very passionately contends that the case does not fall within such exceptional category where this Court, while exercising its power under Article 136 of the Constitution, should interfere in a well-reasoned order of acquittal passed by the High Court.

15. There is no gainsaying that once the appellate court acquits the accused, the presumption of innocence as it existed before conviction by the Trial Court, stands restored, and this Court, while scrutinizing the evidence, will proceed with

great circumspect and will not routinely interfere with an order of acquittal, save when the impeccable prosecution evidence nails the accused beyond any doubt. In other words, where on consideration of the material on record, even if two views are possible, yet this Court, while exercising powers under Article 136 of the Constitution, will not tinker with an order of acquittal.

16. ***State of Karnataka v. J. Jayalalitha***¹ does acknowledge that a judgment of acquittal strengthens the presumption of innocence in favour of the accused. Nevertheless, the caveat is that the court must not shy away from its responsibility to prevent a miscarriage of justice and must intervene when necessary. If the acquittal is based on irrelevant grounds, if the High Court allows itself to be misled by distractions, if the High Court dismisses the evidence accepted by the Trial Court without proper consideration, or if the High Court's flawed approach leads to the neglect of vital evidence, this Court is obligated to intervene to uphold the interests of justice and address any concerns within the judicial conscience.

17. In ***Rajesh Prasad v. State of Bihar***², this Court has outlined the principles guiding its intervention in acquittal orders under Article 136. These are:

- (i) An intervention is warranted when the High Court's approach or reasoning is deemed perverse. This occurs when the High Court, based on suspicion and surmises, rejects evidence or when the acquittal is primarily rooted in an exaggerated adherence to the rule of giving the benefit of doubt in favour of the accused.
- (ii) Another circumstance for intervention arises when the acquittal would lead to a significant miscarriage of justice. This refers to situations where the

1 (2017) 6 SCC 263.

2 (2022) 3 SCC 471.

High Court, through a cursory examination of evidence, severs the connection between the accused and the crime.

18. An erroneous or perverse approach to the proven facts of a case and/or ignorance of some of the vital circumstances would amount to a grave and substantial miscarriage of justice. In such a case, this Court will be justified in exercising its extraordinary jurisdiction to undo the injustice meted out to the victims of a crime.

19. Keeping these principles in mind, we proceed to analyse the legal evidence on record and how the High Court appears to have fallen in an error, at least partially, if not in entirety.

ACQUITTAL ORDER QUA GURPREET SINGH (MAIN ACCUSED)

20. With a view to establish charges against Gurpreet Singh, the prosecution relied on the testimonies of Gursewak Singh (P.W.2), Harmandeep Kaur (P.W.3) and Hari Mittar (P.W.9). A brief summarization of their testimonies is necessitated hereunder.

21. P.W.2, Gursewak Singh, the deceased's husband, is the Complainant in FIR No. 100/2012. He provided a detailed account of the incident to the police, recounting that his wife, who was standing on the stairs, informed him of someone calling from outside the main gate. Upon opening the door of the drawing room, he witnessed Gurpreet Singh armed with a pistol. Gurpreet Singh and the unidentified person (Jagdeep Singh, named later on during the testimony) had entered the house by scaling the wall of the house. While P.W.2 was standing at the drawing-room door, Gurpreet Singh aimed the pistol at Amarjit Kaur, shot her under the right ear causing her to fall. P.W.2 raised the alarm, and upon reaching

the main gate, he saw Gurpreet Singh, along with Harpreet Singh, Kashmira Singh, and Jagdeep Singh, making their escape in an Innova car. P.W.2 asserted that the motive behind the murder was related to his elder daughter, Kirandeep Kaur, who was earlier married to Gurpreet Singh and had relocated to Australia. Due to the divorce from Kirandeep, Gurpreet Singh's plans to settle in Australia were thwarted, and he held the deceased Amarjit Kaur responsible for the divorce.

22. P.W.3, Harmandeep Kaur, the younger daughter of the deceased, recounted that she, along with her brother and mother, was on the terrace of the house. Amarjit Kaur, hence deceased, while descending the stairs, informed Gursewak Singh P.W.2 of the call. P.W.2 opened the drawing room door to check the main gate. In the meantime, Gurpreet Singh, armed with a pistol, and Jagdeep Singh, wielding a hockey stick, entered the premises by scaling the boundary wall. Gurpreet Singh aimed the pistol at Amarjit Kaur, who was standing on the stairs, firing a shot that struck below her right ear. Subsequently, Gurpreet Singh and Jagdeep Singh fled in an Innova car. P.W.3 also detailed the motive, indicating that Gurpreet Singh believed Amarjit Kaur was responsible for the divorce from Kirandeep Kaur, sabotaging his plan to settle in Australia.

23. P.W.9, Hari Mittar, the Investigating Officer of the case, reported that upon reaching the scene of the incident, he documented the statement of P.W.2 and compiled an inquest report concerning the deceased, Amarjit Kaur. Additionally, he mentioned that after the arrest, Gurpreet Singh was interrogated where he made a disclosure statement (Ex.PW9/F) revealing the concealment of a 12-bore country-made pistol along with two live cartridges in bushes opposite Gurudwara Bhaura Sahib. Acting on this disclosure statement, the police successfully recovered a 12-bore country-made pistol, one empty cartridge, and two live

cartridges of the same calibre.

24. The Trial Court, deeming P.W.2 and P.W.3 as natural witnesses, based its findings on their testimonies to establish the involvement of Gurpreet Singh in the murder of Amarjit Kaur. Furthermore, the Trial Court noted that there was no apparent motive for P.W.2 and P.W.3 to protect the real culprits and falsely accuse innocent individuals in connection with the crime. The pertinent paragraph is outlined below:

“51. Thus, the presence of both the complainant and Harmandeep Kaur at the place of occurrence comes across as natural presence. From the direct and unequivocal testimonies of both these witnesses the fact that accused Gurpreet Singh shot at Amarjit Kaur is duly established. The complainant and the eye witness lost their family member in the incident. There would be no reason for the complainant and Harmandeep Kaur to shield the actual culprits and to name the innocent as the perpetrators of the crime.”

25. The High Court, however, in the impugned judgment, stated that the defence has been able to cast a reasonable doubt on the prosecution's story. Consequently, High Court has disbelieved the testimonies of P.W.2 and P.W.3.

26. We have given our thoughtful consideration to the reasons assigned by the High Court, and we find it extremely difficult to concur with the same. We say so for the reason that the presence of Gursewak Singh (P.W.2) in his own house cannot indeed be doubted for the simple reason that the occurrence took place at 1.30 p.m. and he made a call to the Police Control Room at 1.40 p.m. The fact that in the very first version, Gursewak Singh disclosed the name of the Gurpreet Singh, as being the killer of his wife, leaves no room to doubt that he was physically present in the house and witnessed the occurrence.

27. Similarly, the reason assigned by the High Court to discard the version of Harmandeep Kaur (P.W.3) (daughter of the deceased) is wholly untenable. We

cannot at all countenance that a daughter, after her marriage, would permanently stay at her in-laws' house and would not visit her parents after her marriage. Such a sweeping conclusion is neither traceable to Punjab's social culture nor it appeals to our common sense. It is on record that Harmandeep Kaur (P.W.3) was a student before and after her marriage. It is natural that even after her marriage, Harmandeep Kaur (P.W.3) wanted to continue her studies, and therefore was staying with her parents. We see no unnatural or unexpected circumstances in she being present in her paternal home on the fateful day.

28. There is no suggestion to Gursewak Singh, P.W.2 (Complainant), and his daughter Harmandeep Kaur (P.W.3) that they had some other reason to implicate Gurpreet Singh falsely, who happens to be the former husband of the daughter of P.W.2. There was no criminal or civil case filed by the Kirandeep Kaur (ex-wife of Gurpreet Singh), Gursewak Singh (P.W.2) or his family members against Gurpreet Singh. On the contrary, the prosecution has successfully established that Gurpreet Singh had been nursing a grudge against the deceased, whom he held responsible for the divorce from the elder daughter of the deceased. It has also come on record that the elder daughter, Kirandeep Kaur, with whom Gurpreet Singh was earlier married, had settled in Australia even before her marriage. Gurpreet Singh was keen to migrate from India and settle down in Australia. His plans could not materialise because of the divorce from his wife. In such circumstances, the attribution of motive by the prosecution stands proved.

29. We cannot be oblivious to the fact that when the wife of Gursewak Singh (P.W.2) or the mother of Harmandeep Kaur (P.W.3) is suddenly killed in their presence, they would not like the real accused to go scot-free. In the absence of any previous motive, it is not at all comprehensible that they would falsely

implicate Gurpreet Singh. It was not a case where the Complainant had enmity with someone and he concocted a story to implicate Gurpreet Singh post the occurrence. This Court, in ***Thoti Manohar v. State Of Andhra Pradesh***³, observed that in the incident, which transpired partly within the confines of the house and extended slightly beyond the deceased's premises, the family members and close relatives naturally become the witnesses. These individuals cannot be considered incidental witnesses; instead, they emerge as the most natural witnesses in the given factual context. Typically, a close relative is unlikely to shield the actual culprit and falsely implicate an innocent person. While it is acknowledged that emotions can run high and personal animosity may exist, merely being related does not provide a valid basis for criticism; instead, familial ties often serve as a reliable assurance of truth.

30. Most importantly, Gursewak Singh (P.W.2) narrated the entire occurrence on a call made to the Police Control Room within ten minutes of the occurrence. There could not be, in all probabilities, any meeting of the minds within a few minutes after the occurrence, so as to create a false narrative only to implicate Gurpreet Singh. The unfiltered version of the Complainant, in our considered opinion, conclusively establishes the veracity of his subsequent deposition. This Court, in ***Nand Lal v. State of Chhattisgarh***⁴, has categorically held that the prompt lodging of an FIR helps dispel suspicions related to the potential exaggeration of the involvement of individuals and adds credibility to the prosecution's argument. A promptly lodged FIR reflects the first-hand account of what happened and who was responsible for the offence in question. ***(See also:***

Thulia Kali v. State Of Tamil Nadu (1972) 3 SCC 393, State of Punjab v.

³ (2012) SCC 7 723.

⁴ (2023) 10 SCC 470.

Surja Ram 1995 Supp (3) SCC 419, Girish Yadav v. State of M.P (1996) 8 SCC 186 and Takdir Samsuddin Sheikh v. State of Gujarat (2011) 10 SCC 158).

31. It is pertinent to refer to the endorsement of FIR No. 100, dated 18.07.2012, where it is clearly mentioned that as soon as the information was received through Police Control Room, a police party headed by Sub-Inspector Hari Mittar along with ASI Baldev Singh and four Head Constables reached the house of Gursewak Singh (Complainant) at Tower Colony, Jagraon where the dead body of Amarjit Kaur was lying near the stairs. The Complainant's statement was recorded, and an intimation to this effect was sent to the higher officers and the Control Room. This entire exercise got completed by 3.15 p.m. A report to this effect had already been sent to the Ilaka Magistrate, and the dead body was brought for postmortem at about 6.35 p.m. The presence of Gursewak Singh at the time of occurrence, his prompt reporting of the crime, and the swift action taken by the police immediately upon receipt of the said report, have cumulatively and unequivocally established the prosecution case beyond any doubt.

32. This is also a matter of record that the weapon of crime, namely, the pistol, was recovered from Gurpreet Singh pursuant to his disclosure statement. There is overwhelming evidence, including the statement of S.I. Hari Mittar (P.W.9) to establish the recovery of country-made pistol at the instance of Gurpreet Singh. The recovery of the weapon of crime, along with live cartridges and one empty shell, has been elaborately explained by Hari Mittar (P.W.9) in his cross-examination, which inspires confidence. The statement of P.W.9, Hari Mittar has been duly corroborated by ASI Baldev Singh (P.W.8) besides Head Constable Sukhdev Singh (P.W.6).

33. The contention that none of the neighbours came forward to witness the occurrence is totally illogical and a misconceived notion. The prosecution case is that the occurrence took place inside the house. When the police reached the spot immediately after the occurrence, the dead body was found lying inside the house near the stairs. It is, thus, natural that the residents in the adjoining houses did not see the occurrence. The shot was fired at close range, and, the people in the neighbourhood obviously did not come to know about the incident. No adverse inference can be drawn against the prosecution on this count. The time of occurrence, i.e., 1.30 p.m., also indicates that most of the people in the neighbourhood were inside their houses and could not be expected outside in the streets keeping in view the hot and humid weather of July as it prevails in the State of Punjab. We are, therefore, of the considered opinion that the reasons assigned by the High Court while granting acquittal to Gurpreet Singh are totally perverse and as a result of misreading of the evidence on record. In this view of the matter, sustaining the acquittal of Gurpreet Singh, would amount to a travesty of justice and it, thus, warrants interference by this Court in the exercise of its jurisdiction, which we invoke sparingly. Consequently, the order of acquittal passed by the High Court *qua* Gurpreet Singh cannot be sustained and is set aside.

ACQUITTAL ORDER QUA THE CO-ACCUSED

34. Adverting to the prosecution case against Kashmira Singh and Jagdeep Singh (Respondent Nos. 2 and 3 herein) in the appeal arising out of CRA-D-1606-DB-2015 (O&M) and Harpreet Singh, who was the appellant before the High Court in CRR-2942-2015(O&M), we are satisfied that the reasons assigned by the High

Court in support of their acquittal are possible and plausible. We say so in light of the fact that (i) Gursewak Singh (P.W.2 – Complainant) did not mention their names when he called the Police Control Room at 1.40 p.m. immediately after the occurrence. (ii) Gursewak Singh (P.W.2 – Complainant) merely stated that there were some unknown persons accompanying Gurpreet Singh (iii) In fact, P.W.2 and 3 both did not know the above-named three persons – who were nominated as co-accused of Gurpreet Singh. (iv) Gursewak Singh (P.W.2) is claimed to have recollected their names after about five hours of the occurrence. It is difficult to accept how he re-collected their names, more so when the prosecution did not lead any further evidence as to how he knew them prior to the occurrence. (v) The possibility of pointing out their names by someone else thus cannot be ruled out.

35. The Investigating Officer has also failed to disclose as to how he found these respondents to be connected with the crime during the course of investigation. There is no convincing explanation to implicate them as co-accused. There is also not an iota of evidence to suggest that the Respondents (Kashmira Singh, Jagdeep Singh and Harpreet Singh) had any meeting with Gurpreet Singh and/or they had conspired with him for the execution of the crime. There is no specific motive attributed to them. In such circumstances, the High Court seems right in extending the benefit of doubt *qua* them.

CONCLUSION AND DIRECTIONS

36. For the reasons aforesaid, the Criminal Appeal No.664 of 2024 @ SLP(Crl.)No.1852/2024 is allowed in part; the judgment dated 05.12.2019, passed by the High Court of Punjab and Haryana at Chandigarh, acquitting Gurpreet Singh of the offence under Section 302 IPC is set aside, and that of the Trial Court convicting him and sentencing him to life imprisonment is restored. The bail

bonds of Gurpreet Singh, if any, are hereby cancelled. He is directed to surrender and be taken into custody forthwith to serve the remainder of the sentence. The appeal *qua* Kashmira Singh and Jagdeep Singh is dismissed.

37. Criminal appeal No.665 of 2024 @ SLP(Crl.)No.1853 of 2024 against acquittal of Harpreet Singh is dismissed.

38. The present appeals are disposed of in the above terms.

..... J.
(SURYA KANT)

.....J.
(K.V. VISWANATHAN)

NEW DELHI
DATED : 06.02.2024

