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**Court :** Punjab and Haryana

**Decided On :** May-01-2006

**Reported in :** 2006CriLJ3468

**Judge :** Mehtab S. Gill and; T.P.S. Mann, JJ.

**Acts :** [Indian Penal Code \(IPC\), 1860](#) - Sections 302

**Appeal No. :** Cri. Appeal No. 377-DB of 2004

**Appellant :** Satpal Singh

**Respondent :** State of Punjab and anr.

**Advocate for Def. :** S.S. Randhawa, Sr. Dy. Adv. General and; Baltej Singh Sidhu, Adv.

**Advocate for Pet/Ap. :** Jasmail Singh Brar, Adv.

**Disposition :** Appeal allowed

**Judgement :**

Mehtab S. Gill, J.

1. This is an appeal against the judgment of Additional Sessions Judge (Ad hoc) Fast Track Court, Faridkot convicting Satpal Singh under Section 302, IPC and sentencing him to undergo life imprisonment and to pay a fine of Rs. 2000/-, in default to undergo further R.I. for four months.

2. The case of the prosecution is unfolded by the statement Ex.PC of Sukhchain Singh to S.I. Ranjan Parminder Singh. Sukhchain Singh stated that he has two brothers. Eldest being Baldev Singh and younger to him is Dev Singh. All the three brothers are married. Satpal Singh son of Mahla Singh lives in his neighbourhood. About two years ago, Pal Singh brother of Satpal Singh died. About 6/7 months ago, Dev Singh developed illicit relations with Pal Singh's wife Charanjit Kaur. This was not liked by Satpal Singh. At that time the respectables of the village intervened and effected a compromise between Dev Singh and Satpal Singh. At about 9 p.m. on 23-8-1999 Mukand Singh son of Isher Singh came to the house of Sukhchain Singh and asked Dev Singh to accompany him, as he had to irrigate the land, Nasib Kaur wife of Dev Singh, who had given birth to a child 2/3 days earlier, tried to stop Dev Singh to go out of the house. Mukand Singh put pressure on Dev Singh and took him along. After taking their meals, Sukhchain Singh went to the roof of his house to sleep. At about 11 p.m. he heard the shout 'killed killed'. Nasib Kaur and Sukhchain Singh rushed to the house of Charanjit Kaur. Electric bulb was illuminating in the courtyard of the house of Charanjit Kaur. Satpal Singh armed with a gandasa shouted that he would teach Dev Singh a lesson for his coming daily to his brother's wife in their house. Within their sight, he gave two gandasa blows on the head of Dev Singh from the sharp side. Dev Singh fell down. Thereafter Satpal Singh fled away. On the basis of this statement, FIR Ex.PC/2 was recorded on 24-8-1999 at 8.10 a.m. at Police Station Lambi. Special report reached the Sub-Divisional Judicial

Magistrate, Malout on the same day at 10 a.m.

3. Prosecution to prove its case brought into the witness box Dr. S. S. Mali as PW1, Sukhchain Singh as PW2, Nasib Kaur as PW3, Ajit Sharma Draftsman as PW4, C. Baldev Singh as PW5, Nachhattar Singh as PW6, C. Jagjit Singh as PW7, ASI Banta Singh as PW8, ASI Mohan Lal as PW9 and S.I. Ranjan Parminder Singh as PW10.

4. Learned Counsel for the appellant has argued that there is a seven hours' unexplained delay in the lodging of the FIR. A number of persons were present after the occurrence had taken place. Police Station Lambi was only 6 Kms. away. Sukhchain Singh PW2 and Billu Singh went to the police station on the next day. Statement Ex.PC was not recorded at village Badal and it has come in the evidence of Sukhchain Singh PW2 that his thumb Impressions were obtained by the police after he had seen the dead body. Nasib Kaur PW3 has stated in her testimony that gundasa Ex.P1 was lying at the spot. There was no need to record the disclosure statement of the appellant for recovery of the gandasa, as it was lying in full view of every one.

5. The eye-witness account narrated by Sukhchain Singh PW2 and Nasib Kaur PW3 is not believable. The alleged occurrence had taken place at about 11 p.m. In the month of August, people in villages sleep outside. Occurrence had taken place 2/3 killas (acres) away from where both the alleged eyewitnesses were sleeping. Nasib Kaur PW3 has stated that on hearing the noise, she woke up Sukhchain Singh PW2 and it is thereafter they went to the house of Charanjit Kaur and saw appellant Satpal Singh giving two gandasa blows on the head of the deceased. It must have taken not less than 4/5 minutes for the eye-witnesses to have reached the place of occurrence. It was not possible for the deceased to have shouted for help, nor had Sukhchain Singh PW2 and Nasib Kaur PW3 seen the occurrence. In fact it is a case of blind murder. Deceased Dev Singh had a number of enemies and he would have been killed by them,

6. Learned Counsel for the State has argued that FIR Ex.PC/2 has been recorded promptly. Sukhchain Singh PW2 did not go to the police station immediately as it was night time and as he was afraid he wanted that some one accompany him. He did not have a cycle or any other mode of transport. Distance of 2/3 killas where the occurrence had taken place from the house of Sukhchain Singh PW2 is not a distance, which is far away. Dev Singh shouted for help and it is thereafter he was attacked. Both Sukhchain Singh PW2 and Nasib Kaur PW3 reached the place of occurrence and saw appellant-Satpal Singh inflicting injuries to the deceased. Sukhchain Singh PW2 the brother of the deceased and Nasib Kaur PW3 the wife of the deceased would not falsely implicate appellant-Satpal Singh for the murder of Dev Singh and let the actual culprit go scot free.

7. We have heard the learned Counsel for the parties and perused the record with their assistance.

8. Statement Ex.PC was recorded by S.I. Ranjan Parminder Singh PW 10 at 7.15 a.m. on 24-8-1999. Occurrence had taken place on 23-8-1999 at 11 p.m. in the house of Charanjit Kaur wife of Pal Singh. Distance of Police Station Lambi from the place of occurrence is 6 Kms. It has come in evidence of Sukhchain Singh PW2 that there are telephones installed in the village, the village is connected with a pacca road to the town of Lambi, there are a number of tractors, scooters etc. in the village. Sukchain Singh PW2 took 8 hours to contact the police and have his statement Ex.PC recorded. No explanation has come from the side of the prosecution as to the delay caused in informing the police though scooters, tractors and other modes of transport were available in the village. Not only were vehicles available in the village but there were a number of telephones available as admitted by Sukhchain Singh PW2. We are of the considered opinion that this delay was in fact being utilised by Sukhchain PW2 to find out who the culprits were as it was a case of blind murder.

9. The eye-witness account given by Sukhchain Singh PW2 and Nasib Kaur PW3 is not believable. These witnesses were not in fact present when the occurrence had taken place. Sukhchain Singh PW2 in his testimony has stated, that the house of appellant Satpal Singh is 22/25 houses away from their house. He has further stated that the deceased was not wearing a turban at the time of occurrence. Similarly Nasib Kaur PW3 in her testimony has stated, that at about 11 p.m. she along with her mother-in-law were sleeping in the house, while Sukhchain Singh PW2 was sleeping on the roof of their house. They heard the shouts of 'Mar Ditta Mar Ditta' (killed killed) from the side of the house of Charajit Kaur. After hearing the noise she had

woken up Sukhchain Singh PW2 who was sleeping on the roof, after giving him 3/4 calls, stating that his brother Dev Singh was being killed and she had recognized his voice. Sukhchain Singh PW2 then came down. Both Sukhchain Singh PW2 and Nasib Kaur PW3 went to the side from where the shouts were coming. The house of the appellant was at a distance of 5/7 klllas from their house. She had taken her child of 2/3 days old along with her when she went to the place of occurrence. The sequence of events of Sukhchain Singh PW2, being woken up and Nasib Kaur PW3 having lifted her child of 2/3 days and thereafter both going to the place of occurrence would not have taken less than 5 to 7 minutes. Sukhchain Singh PW2 and Nasib Kaur PW3 would have reached the house of Charanjit Kaur after the injuries had been inflicted.

10. Dr. S. S. Mali PW1 has stated in his testimony that it is correct that after receiving injuries like injury No. 1, a person is not left in a position to speak or raise a noise. Injury No. 1 is a very serious injury. It is an incised wound 15 cms. x 1.75 cms. going 5 cms. deep in its middle part on the top of the scalp, vertically placed in the midline starting 6 cms from the anterior hairline. The second injury is also an incised wound C shaped with open over the left parietal region of size 5 cms x 1.5 cms into bone deep 3 cms towards the left side of injury, No. 1. It is clear from the medical evidence that the two blows inflicted on the head of the deceased would have incapacitated him to shout for help.

11. Sukhchain Singh PW2 and Nasib Kaur PW3 in fact have not seen the occurrence, but have been implanted as eye-witnesses. Nasib Kaur PW3 in her testimony has stated that she does not know as to the motive for the commission of the offence. She has stated that Dev Singh was working at brick kiln of village Lohgarh. He had previously been caused injuries by Kaka Singh, Kalia Singh and Amarjit Singh. She had denied the suggestion that those injuries had been caused for the reason that wife of Kalia Singh had been kept by Sukhchain Singh PW2 against her wish.

12. The prosecution has failed to prove its case. Case against the appellant is doubtful. We give him the benefit of doubt.

13. Appeal of the appellant is accepted. Appellant is acquitted of the charges framed against him. If in custody in this case, he is directed to be released forthwith.

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