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PUNJAB AND HARYANA HIGH COURT

Before: Rajiv Sharma & Harinder Singh Sidhu, JJ.

CRA-D-444-DB-2009 (O&M)

Reserved on: 12.03.2020

Decided on: 15.07.2020

Gaganjit Singh and others

Appellants

Versus

State of Punjab

Respondent

Alongwith

CRA-D-467-DB-2009 (O&M), Surinder Pal Singh v. State of Punjab

And

CRR-3151-2009 (O&M), Balbir Singh v. State of Punjab and others

Present:

Mr. R.S. Cheema, Senior Advocate with Mr. Vijay Kumar Goyal, Advocate for appellant in CRA-D-467-DB-2009.

Mr. Vijay Kumar Goyal, Advocate (Legal Aid Counsel) for appellant No.2 and Mr. A.D.S. Sukhija, Advocate for appellant No.3 in CRA-D-444-DB-2009.

Mr. H.S. Grewal, Additional A.G., Punjab.

Mr. Tarun Sharma, Advocate for Mr. Jetinder Pal Singh, Advocate for the petitioner/complainant in CRR-3151-2009.

Indian Penal Code, 1860 (45 of 1860), Section 148, 149, 302, 324 – Two incidents one at Truck Union and another at Civil Hospital – Murder took place at Truck Union – Later injuries inflicted at Civil Hospital -- Three surviving appellants – Overt Act -- Allegation of lalkara – Consideration of --

– ‘GS’ alleged to be armed with handle of spade has not been attributed any overt act in the occurrence either at the Truck Union or at Civil Hospital – Only role attributed to accused ‘SPS’ is of raising a lalkara at the time of the second occurrence and both of them were alleged to be armed only with handle of spade, and the fact that they are all members of one family, the chances of their false implication cannot be ruled out -- Their appeal accepted and they acquitted of the charges by giving them the benefit of doubt.

-- ‘I.S.’ alleged to have given two blows with sword which hit on the right index finger and palm of right hand of PW1 -- As per PW9 Doctor these injuries were caused with sharp weapon and were simple in nature – Considering the fact that no overt act has been attributed to ‘I.S.’ in the incident at Truck Union and his presence is doubtful, he is acquitted of the charges u/s 148 and Section 302/149 IPC by giving him the benefit of doubt -- However, his conviction u/s 324 IPC and the sentence thereunder maintained.

(Para 4, 56-59)

HARINDER SINGH SIDHU, J. –

1. Since common questions of law and facts are involved in the aforesaid

cases these are taken up together and disposed of by a common judgment.

2. Criminal Appeal No.CRA-D-444-DB of 2009 and CRA-D-467-DB of 2009 have been filed by the accused – appellants against their conviction and sentence vide judgment and order dated 28.04.2009 of the learned Additional Sessions Judge, Ferozepur in Sessions case No.12 of 2006, whereby, they along with one Gurdeep Singh were charged with and tried for offences punishable under Sections 302, 307, 506, 324, 427, 148/149 of the Indian Penal Code (in short 'IPC') and Sections 25 and 27 of the Arms Act and were convicted and sentenced as under:-

Name of convict	Offence	Sentence	Fine	In default
Gaganjit Singh	148 IPC	One year	Rs.500/-	One month
	302 IPC	Life	Rs.3,000/-	One year
	324/149 IPC	One year	Rs.500/-	One month
Inderjit Singh	148 IPC	One year	Rs.500/-	One month
	302/149 IPC	Life	Rs.3,000/-	One year
	324 IPC	One year	Rs.500/-	One month
Gagandeep Singh	148 IPC	One year	Rs.500/-	One month
	302/149 IPC	Life	Rs.3,000/-	One year
	324/149 IPC	One year	Rs.500/-	One month
Ajit Singh @ Jeeta	148 IPC	One year	Rs.500/-	One month
	302/149 IPC	Life	Rs.3,000/-	One year
	324/149 IPC	One year	Rs.500/-	One month
Surinder Pal Singh	148 IPC	One year	Rs.500/-	One month
	302/149 IPC	Life	Rs.3,000/-	One year
	324/149 IPC	One year	Rs.500/-	One month

The sentences were ordered to run concurrently. Gurdeep Singh was acquitted. Appellants No.1 and 4 in CRA-D-444-DB-2009 namely Gaganjit Singh and Ajit Singh alias Jeeta have died during the pendency of the appeal, and the appeal qua them stands abated.

3. Criminal Revision No.3151 of 2009 has been filed by complainant Balbir Singh challenging the acquittal of Gurdeep Singh. He has also sought conviction of all the accused under Section 307/148/149 IPC and Sections 25 and 27 of the Arms Act.

4. The case of the prosecution in nutshell is that on 06.02.2006 MHC Balwinder Singh received a telephonic message that there has been firing at Truck Union, Abohar. Upon this, SHO Arshdeep Singh along with other police officials reached Truck Union, Abohar, where he came to know that injured Baljit Singh had been taken to Civil Hospital, Abohar for medical treatment. He went to Civil Hospital, Abohar where doctor gave him one medical ruqa in respect of the death of Baljit Singh and one MLR in respect of injured Balbir

Singh. He recorded the statement of Balbir Singh son of Partap Singh to the effect that he was resident of Village Danewala Satkosi and was President of Truck Union, Abohar. That day they had a meeting of the Truck Union with the nominees of other Truck Unions. In this regard, his brother Baljit Singh Sarpanch of village Danewala Satkosi, Rajvir Singh and Jaspal Singh of the same village had come to the Truck Union on their jeep bearing No.PB-04F-1404. After dropping him there, they went to market on the jeep. They returned to truck union at about 4.45 pm. At that time the meeting was going on. Pukar was also going on. Gurjit Singh @ Churla son of Kartar Singh r/o Abohar and Inderjit Singh son of Lal Chand resident of Abohar came on motorcycle bearing No.PB-15C-3324. Gaganjit Singh son of Kartar Singh, Gurdeep Singh s/o Kartar Singh, Gagandeep Singh s/o Gurdeep Singh, Surinderpal Singh s/o Gurjit Singh, Jeet Singh alias Jeeta son of unknown, all residents of village Abohar came in a Maruti car of white colour. At that time, Gaganjit Singh and Gurjit Singh were armed with .12 bore double barrel guns, Inderjit Singh and Gurdip Singh were armed with kirpans and remaining accused were armed with handles of spade. On reaching there, Gurdeep Singh raised lalkara that the President of the Truck Union and his brother Baljit Singh should not be spared. The remaining accused started hurling abuses. He and his brother tried to stop them from doing so. Then Gaganjit Singh got enraged and fired from his gun at them with an intention to kill. The shot hit his brother Baljit Singh on the chest. He fell down. Gaganjit Singh fired another shot which crossed them above their heads. He raised alarm. On hearing all the persons who were attending the Pukar came out. The accused fled away on their vehicles with their weapons. He (Balbir Singh) along with Rajvir Singh and Jaspal Singh took his brother Baljit Singh to Civil Hospital, Abohar on the jeep where doctor declared his brother Baljit Singh dead. He was standing in the emergency ward near the dead body of his brother. At that time, aforesaid accused came there along with their weapons on the car and motorcycle. Accused Gurjit Singh entered the emergency ward with his motorcycle. The other accused came out of the car and entered the emergency ward. Surinder Pal Singh and Jita Mota raised lalkara that Balbir Singh was saved at the truck union and he should not be spared and be killed. Gurjit Singh fired two shots from his .12 bore gun towards him with an intention to kill him. He lay down on the ground and the shots hit the wall. Then Inderjit Singh aimed blow of his kirpan at him. In order to save himself, he raised his right hand. The blow hit on his index finger. Inderjit Singh inflicted another blow with his kirpan which hit on the palm of his right hand. Then Jita Mota gave blow with the handle of spade on the glasses of the window pane and the glass broke. Meanwhile, a large group of persons from the Truck Union reached there. They snatched the guns of Gurjit Singh alias Churla and Gaganjit Singh, and gave injuries with the butt of the guns to Gurjit Singh alias Churla, as a result of which he fell down and later died. Then all the accused fled away. They took away the car but the motorcycle was left at the spot. The mob threw the broken guns and the butts in the emergency ward.

5. The motive behind the occurrence was that Gurjit Singh @ Churla remained as President of the Truck Union, Abohar for some years. Gaganjit Singh was Member of the Truck Union. For the last two and half years complainant Balbir Singh had become the President of the Union. Gurjit Singh and Gaganjit Singh could not bear this and they used to cause trouble to him

and his brother Baljit Singh, who used to help him in the business of the Truck Union. Due to this reason all the accused after conspiring with each other had killed his brother Baljit Singh and caused injuries to him.

6. On this statement the case was registered against the accused. SHO Arshdeep Singh visited the place of occurrence and recorded the statements of the witnesses. During investigation, SHO Arshdeep Singh found Gurdeep Singh, his brother Gagandeep Singh and Jeet Singh son of Mehar Singh as innocent. Later on, DSP Narinder Pal Singh found Surinder Pal Singh son of Gurjit Singh as innocent. Further, Jita Mota was also found innocent and only Gaganjit Singh and Inderjit were found to be accused.

7. After completion of the investigation, challan against accused Gaganjit Singh and Inderjit Singh was presented in the Court. Police filed application for discharge of Surinder Pal Singh which was dismissed by the Trial Court on 15.06.2006.

8. After the examination- in- chief of PW1 Balbir Singh was recorded on 05.10.2006, an application under Section 319 Cr.P.C. was moved, whereupon, Gurdeep Singh, Gagandeep Singh and Ajit Singh @ Jita Mota were summoned vide order dated 16.11.2006 to face trial along with other accused.

9. The prosecution examined number of witnesses in its support. The statements of the accused under Section 313 Cr.P.C. were recorded. They denied the allegations levelled against them. In defence, they examined DW1 Darshan Singh, DW2 Dr. Jagdip Chawla, DW3 DSP Narinder Pal Singh and DW4 Dr. Radhey Sham.

10. Accused Gaganjit Singh stated that he and his co-accused were innocent. On 06.02.2006 he along with his brother Gurjit Singh (since deceased) had come to the truck union in the car of Gurjit Singh to hear the Pukar as he owned a truck and was doing business through truck union, Abohar. At that time, Balbir Singh who was armed with Gandasa and Baljit Singh (since deceased) who was armed with kirpan attacked him. Balbir Singh was annoyed with him and his brother Gurjit Singh as he (Gaganjit Singh) had complained against Balbir Singh to Sunil Jakhar, Congress MLA from Abohar about sending trucks for the rally organised by Surjit Singh Jaini, Ex.MLA Fazilka belonging to the BJP. Sunil Jakhar had reprimanded Balbir Singh for this. When he and his brother Gurjit Singh reached the Truck Union, Balbir Singh inflicted a gandasa blow from its reverse side on his face. Baljit Singh gave a kirpan blow from its reverse side on his forehead. Thereafter, Balbir Singh and Baljit Singh caused many injuries on his person. His brother Gurjit Singh came out of his car armed with .12 bore licensed gun to save him. Balbir Singh and Baljit Singh attacked Gurjit Singh and moved towards him to cause injuries with gandasa and kirpan. Apprehending danger to his life, Gurjit Singh fired a shot at Baljit Singh from a distance of 2-3 feet. Thereafter, he (Gaganjit Singh) was taken to Civil Hospital, Abohar by Gurjit Singh, Darshan Singh, Avtar Singh and others, who were Members of Truck Union, Abohar. In the Hospital, Balbir Singh fired a shot with his revolver which hit Gurjit Singh on the forehead. Thereafter, his gun was snatched by Balbir Singh and his associates and Gurjit Singh was caused multiple injuries by Balbir Singh and others. His head was smashed. He was murdered in the emergency ward of the Civil Hospital, Abohar. This was witnessed by Darshan Singh, Avtar Singh and others. No case was registered by the Police against Balbir Singh and others

as Sunil Jakhar MLA intervened and restrained the Police. No injury was caused to Balbir Singh by Inderjit Singh either in truck union Abohar or in the Civil Hospital. Inderjit Singh was not present at these places. The injuries on the person of Balbir Singh were manipulated. He (Gaganjit Singh) was also attacked in the Hospital by Balbir Singh and his associates, but was taken in a car in an injured condition to Civil Hospital, Malout where SI Jallaur Singh recorded his statement and sent it to Police Station Abohar for registration of a case under Section 307, etc. IPC against Balbir Singh and others. However, due to political influence no case was registered against Balbir Singh and others. On the directions of the High Court, FIR No.205 dated 24.04.2007 under Section 302/307 IPC was registered against Balbir Singh and others. They filed an SLP before the Hon'ble Supreme Court where investigation in case FIR No.205 was stayed and the petition was still pending. He further stated that the alleged eye witnesses Rajvir Singh and Jaspal Singh had not seen the occurrence and were not present at the time of alleged occurrence at the truck union. The motive alleged in the case was false. Gurjit Singh (deceased) never contested election against Balbir Singh. He was not carrying any gun. His gun was brought by the police from his house. It was broken by the Police. Shots were fired from it at the Police Station in order to help the complainant party.

11. Accused Surender Pal stated that he was innocent. He and his co-accused Gurdeep Singh, Gagandeep Singh, Inderjit Singh and Ajit Singh did not participate in the occurrence. They were not present either at the truck union or in the Hospital at the time of the occurrence. He had been found innocent by the Police and placed in column No.2 of the challan. An application had been presented before the Ilaqa Magistrate for his discharge. However, he was not discharged. He was arrested from the Hospital, where he had reached on hearing about the murder of his father Gurjit Singh by Balbir Singh and his associates. His father Gurjit Singh had been brought in an injured condition from truck union to Civil Hospital, Abohar by his uncle Gagandeep Singh where he was subsequently killed and a case FIR No.205 dated 27.06.2007 was registered against Balbir Singh and others. Balbir Singh had manipulated injuries on his person and falsely involved him and his co-accused.

12. Inderjit Singh - accused stated that he was innocent and was falsely involved in the case. He was not present either in the truck union or in the Hospital at the time of occurrence. He did not participate in the alleged occurrence. He did not cause any injury to Balbir Singh, who had manipulated the injuries on his person. He had been falsely involved in the case being a close relative of Gaganjit Singh.

13. Similar statement was made by accused Gagandeep Singh, who stated that he and his co-accused, namely Surender Pal Singh, Gurdeep Singh, Inderjit Singh and Ajit Singh had been falsely implicated. They were not present either at the truck union or in the hospital at the time of occurrence. He and the aforesaid co-accused were found innocent by the Police. Balbir Singh had manipulated the injuries on his person to falsely involve him.

14. The appellants were convicted and sentenced as referred to above. Hence, these appeals and revision.

15. We have heard learned counsel for the parties and have gone through the judgment and record.

16. PW1 Balbir Singh stated that he was President of Truck Union, Abohar. On 06.02.2006 a meeting of the truck union with other truck unions was to be held in the office of Truck Union, Abohar. He along with his brother Baljit Singh Sarpanch, Jaspal Singh and Rajvir Singh from his village came there on a jeep bearing Reg.No.PB-04F-1404. After leaving him in the office of the truck union, Baljit Singh Sarpanch, Jaspal Singh, Rajvir Singh went to the Bazar in the Jeep. At about 4.45 pm, the meeting of the truck union with representatives of other unions was going on and Pukar was also going on. Meanwhile, Baljit Singh, Rajvir Singh and Jaspal Singh came back to the truck union on the jeep. His brother Baljit Singh called him outside the meeting room. He and his brother Baljit Singh were standing in the courtyard. Meanwhile, Gurjeet Singh @ Churla along with Inderjit Singh came on a black colour Bajaj motorcycle bearing Reg.No.PB-15C-3324. Gurjit Singh was armed with .12 bore DBBL gun, Inderjit Singh was armed with Kirpan. Behind them, Gaganjit Singh armed with .12 bore DBBL gun, Gagandeep Singh armed with handle of spade, Gurdeep Singh armed with Kirpan, Surinder Pal Singh armed with handle of spade Jit Singh alias Jita Mota armed with handle of spade came there in a white Maruti car bearing No.DL-3C-F-6449. Gurdeep Singh raised lalkara that he (PW1) and his brother Baljit Singh who is his big supporter should not go scot free. The remaining accused started abusing them. Gaganjeet Singh fired from his gun with intention to kill Baljit Singh. The shot hit Baljit Singh on the chest as a result of which he fell down. Gaganjeet Singh fired another shot, which passed over his head (head of PW1). He raised alarm, on which persons from Pukar Room and few others came there. On seeing them, the accused fled away on their vehicles. He along with Rajvir Singh and Balkar Singh took his brother Baljit Singh to Civil Hospital, Abohar in the jeep, where the doctors declared him dead. He along with Jaspal Singh and Rajvir Singh was present in the emergency ward of the hospital. He was standing towards the foot of the dead body of Baljit Singh. Meanwhile, all the above named accused came to the hospital with their weapons. Gurjeet Singh and Inderjit Singh came on motorcycle and entered the emergency ward of the Civil Hospital with it. Gurjeet Singh was armed with a .12 bore DBBL gun and Inderjit Singh with Kirpan. The remaining accused also entered the emergency ward after alighting from the car with their respective weapons. Jeet Singh @ Jita Mota and Surrender Pal Singh raised lalkara that Balbir Singh, President had escaped at the Truck Union and that he be not spared and be killed. Gurjeet Singh @ Churla fired two shots at him with his .12 bore gun. However, he ducked and the shots hit the wall behind him. Accused Inderjit Singh aimed a kirpan at him. He tried to save himself by raising his right hand and the kirpan hit on his index finger. Another kirpan blow inflicted by Gurdeep Singh hit him on the right index finger. Inderjit Singh inflicted another kirpan blow on his right palm. Accused Jeet Singh @ Jita Mota started breaking the window panes with the handle of spade. The glass broke. He raised alarm to save himself. Meanwhile, a mob which had gathered outside entered the emergency ward, snatched the guns from the hands of Gurjit Singh @ Churla and Gaganjeet Singh. In order to save him (PW1) and others the mob inflicted injuries on the head of Gurjit Singh causing him to fall down. Seeing Gurjit Singh fall, the remaining accused fled away along with their weapons in the car. The motorcycle was left behind in the emergency ward. The mob chased them. The guns snatched by the mob were left in the emergency ward. The butts of the

guns were broken. Other weapons were taken away by the accused. The motive behind the occurrence was that earlier Gurjit Singh @ Churla was President of Truck Union, Abohar and Gaganjeet Singh accused, who was his brother was the Executive Member of the said Union at that time. PW1 Baljit Singh had become President of the Union for the last 2 ½ years. On that account, they bore a grudge against him. They had murdered his brother and made a murderous assault on him. Gurjit Singh and Gaganjeet Singh wanted to be President of the Truck Union. He proved his statement Ex.P1 which was thumbmarked by him in token of its correctness as he could not sign due to injuries on his right hand.

17. In cross-examination he stated that accused Gurdip Singh, Gurjit Singh and Gaganjit Singh have no other brother. Surender Singh accused is son of accused Gurjit Singh. Accused Inderjit Singh is brother-in-law of Gaganjit Singh. Accused Ajit Singh is son of maternal aunt of accused Gaganjit Singh. All the accused are thus related to each other, but they live separately. Except accused Gaganjit Singh and Ajit Singh, no other accused owned any truck at the time of occurrence. But they were members of the Union. At the time of occurrence, neither he (PW1) nor his deceased brother and the other eye-witnesses owned any truck. But they were members of the truck union. Both the parties had affiliation with the Congress Party. At the time of occurrence, he was President of Khuyian Sarvar Congress Block. He was not on speaking terms with Gurjit Singh for about 10-15 days before the occurrence. He had attended the marriage of Surender Singh accused son of Gurjit Singh. Gurjit Singh had never contested election of the President of Truck Union. However, he was annoyed with him (PW1) when he was elected President unanimously. Accused Gurjit Singh had remained President of the Truck Union from 1997 to 1999. About 40-50 persons were present at the time of Pukar. At the time of occurrence 40-50 persons were present. He had reached the hospital at about 5.30 pm. Gurjit Singh fired at him in the Hospital with the gun from a distance of 7 to 8 feet, but the same did not hit him. When Kirpan blow was given to him, he was lying on the ground. Blows were given with force. His fingers did not get cut off. Gurjit Singh had fallen down after receiving injuries with the butt of gun. He could not name any person from out of the crowd, who is stated to have killed Gurjit Singh @ Churla. He did know as to when the Police reached the Hospital, but the Police contacted him between 7 to 8 pm. He admitted that the case was filed by the accused in the High Court against them (complainant party) and the High Court vide order dated 24.04.2007 had ordered for registration of a case against them. Consequently, FIR No.205 of 2007 under Section 302, 307 IPC was registered against them. They were, however, never joined in the investigation of the said case.

18. PW2 Rajvir Singh deposed that on 06.02.2006 he along with Balbir Singh, Baljit Singh and Jaspal Singh had gone to Abohar on a jeep. Balbir Singh was President of Truck Union Abohar. After dropping Balbir Singh at the truck union, Abohar, he along with Baljit Singh and Jaspal Singh went to the market of Abohar. They went back to the truck union at about 4.30/4.45 pm. Baljit Singh went inside the office of truck union to call Balbir Singh. At that time a meeting of the Truck Unions was being held. Pukar was also being held. In the meantime, motorcycle No.PB-15-C-3324 came which was being driven by Gurjit Singh @ Churla (who has since died). Inderjit Singh was sitting on the

pillion. Gurjit Singh had a .12 bore DBBL gun. Inderjit Singh was armed with a kirpan and hockey butt. Meanwhile, a white Maruti car also came there. In it were accused Gaganjit Singh, Gurdip Singh, Surender Pal Singh, Gagandeep Singh and Jeet Singh @ Jita Mota. Gaganjit Singh was carrying a .12 bore DBBL gun, Gurdip was having kirpan and the other accused were armed with handles of spades. Gurdip Singh raised lalkara that the brother of the President of the truck union should not be spared. The other accused started abusing Balbir Singh and Baljit Singh. Balbir Singh and Baljit Singh tried to stop them from abusing. Accused Gaganjit Singh fired a shot from his gun at Baljit Singh with intention to kill him. The shot hit on the chest of Baljit Singh, as a result of this he fell down. Gaganjit Singh fired another shot at Baljit Singh, but the same missed him. Balbir Singh raised hue and cry, whereupon, all the accused ran away on the car and motorcycle with their respective weapons. Balbir Singh took his brother Baljit Singh to the Hospital with Jaspal Singh's help, where he was declared 'brought dead'. When they were standing near the dead body of Baljit Singh, accused Inderjit Singh and Gurjit Singh @ Churla came on a motorcycle. They rode on the motorcycle to the emergency ward itself. They were followed by accused Gaganjit Singh, Gurdeep Singh, Surender Pal Singh and Jita Mota in a Maruti car. Gurjit Singh was armed with .12 bore DBBL gun, Inderjit Singh was armed with Kirpan, Gaganjit Singh with a gun, Gudeep Singh with a kirpan. The other accused Surender Pal Singh, Gagandeep Singh and Jita Mota were armed with dangs. Accused Surender Pal Singh and Jita Mota raised lalkara that President of the Union Balbir Singh had escaped and that he should not be spared. Thereupon, Gurdeep Singh @ Churla fired two shots from his gun, which missed Balbir Singh, but hit against the wall of the hospital. Balbir Singh had saved himself by ducking. Inderjit Singh inflicted a kirpan blow which hit on the right hand finger of Balbir Singh. Accused Gurdeep Singh inflicted a kirpan blow which hit the right palm near the index finger of Balbir Singh. Inderjit Singh inflicted another kirpan blow, which hit the palm of Balbir Singh. Balbir Singh raised alarm, whereupon 40-50 persons collected there. They attacked the accused party. They snatched the weapons of the accused and started beating them. Gurjit Singh received injuries on his head with the butt of the gun because of which he fell down. All the accused then ran away on their car leaving the motorcycle behind. The crowd which had attacked the accused also went away leaving the guns in the hospital. The Police came and took into possession the broken guns of the accused from the Hospital premises. One of those guns was loaded with two cartridges. The other gun was loaded with two empty cartridges. They were taken into possession. Two separate sealed parcels of the empty and live cartridges were prepared. Both the guns were also converted into sealed parcels. The pellets and the wads were separately sealed and taken into possession. Blood stained soil was also lifted from near the dead body of Gurjit Singh. Three live cartridges were also removed from the right pocket of Gurjit Singh. The same were sealed and taken into possession. The Bajaj motorcycle No.PB-15-C-3324 which was left behind by the accused was taken into possession.

19. In cross-examination, he stated that Balbir Singh complainant was not related to him, but was close to the family on account of brotherhood. At that time neither he nor Jaspal Singh owned any truck. They were also not members of the truck union. At the time of removal of the dead body of Baljit

Singh on the jeep, his clothes were stained with his blood. He did not produce those clothes before the Police nor did the Police ask for the clothes. Gaganjit Singh had fired the first shot from a distance of 8-10 feet. The second shot fired by him did not hit Baljit Singh, and rather crossed over the wall. At that time, 70-80 persons were present. However, except for the two of them, no other person witnessed the occurrence as they were in the Pukar room. They reached the hospital within 20-25 minutes. The accused reached the emergency ward of the hospital when the doctors had already examined and declared Baljit Singh as dead. At that time, he (PW2), the complainant and Jaspal Singh were standing beside the dead body of the deceased in the emergency ward of the Hospital. Two accused, namely Inderjit Singh and Gurjit Singh @ Churla came in the room. The others were standing near the door outside. Gurjit Singh fired two shots at Balbir Singh, but Balbir Singh lay down on the ground and saved himself. About 40-50 persons had entered the emergency room. He could not pin-point as to who had killed Gurjit Singh. He saw the police at about 8.00 - 8.30 PM, but it had arrived before that time. He did not see the police in the Hospital at 5.15 pm. He did not get recorded in his statement under Section 161 Cr.P.C. that Gaganjit Singh fired the shot under provocation at Baljit Singh. His attention was drawn to statement Ex.D1 where this fact was mentioned. He had shown the place of occurrence in the hospital to the police. He denied that he and Jaspal Singh were not present in the hospital and that he had deposed falsely.

20. PW3 Jaspal Singh, another eye-witness of the incident, also narrated the occurrence giving details about the injuries caused by the accused to Baljit Singh and his brother Balbir Singh with their respective weapons. He also deposed that Gaganjit Singh fired shot from his gun at Baljit Singh which hit on his chest because of which he died. He has corroborated the statements of PW1 Balbir Singh and PW2 Rajvir Singh on all counts. He also identified the accused in the Court. He further deposed that Gurjit Singh had died on account of the injuries sustained by him at the hands of the crowd. The same night at 3.00 a.m, he was taken by the Police to the premises of the truck union where the accused had caused the death of Baljit Singh. The place was inspected by the Police in his presence. From that place two empties of .12 bore were lifted, which were sealed and taken into possession vide memo Ex.P7. The blood stained concrete with soil and plain soil concrete were taken into possession vide memo Ex.P8.

21. In cross-examination, he stated that the occurrence at the truck union took place within 2-3 minutes. When they were picking up Baljit Singh in the jeep 40-50 persons came out from the truck union. Many persons came to the hospital. Accused came to the hospital 4-5 minutes after they had reached the Hospital. Accused Gurjit Singh @ Churla, Inderjit Singh and one other Gurjit Singh entered the emergency room in the Hospital. Balbir Singh was at a distance of about 8-10 feet when Gurjit Singh fired the shot. He was standing outside the dressing room when Balbir Singh was injured with kirpan blows. 30-40 persons entered the room at that time. His statements was recorded at 3.00 PM in the Truck Union and at about 2.30 AM in the Hospital. He could not tell as to who had killed Gurjit Singh @ Churla. He denied that he had not witnessed the occurrence at the Truck Union or in the Hospital and that he was deposing falsely.

22. PW4 Jaswant Singh, draftsman deposed that on 12.4.2006 he had

prepared the site plan Ex.P9.

23. PW5 Sumesh Chopra, photographer deposed that on 06.02.2006 he had taken the photographs of the place of occurrence i.e. Civil Hospital. He proved 29 photographs Ex.MO1 to MO29 and their negatives Ex.MO30 to Ex.MO58.

24. PW6 HC Balwinder Singh who was MHC Police Station City Abohar tendered in evidence his affidavit Ex.P13 regarding deposit of the case property with him, his retaining the same in safe custody and further sending it to the Chemical Examiner etc.

25. PW7 Udey Chand, Motor Tax Clerk produced the summoned record regarding the registration of Motorcycle No.PB-15C-3324. It was registered in the name of Pankaj Kumar Garg s/o Raj Kumar, Street No.6, Gobind Nagri, Abohar.

26. PW8 Dr.K.D.Vashist, Medical Officer deposed that on 07.02.2006 he was posted as Medical Officer in Civil Hospital, Abohar. On that day he and Dr.Gobind Aggarwal performed the post mortem of the dead body of Baljit Singh.

On dissection, he found the following injuries:

“1.4cm circular wound present on the front of chest, 15 cm from sternal notch, 1 cm left to mid line of chest, margin of the wound was inverted and also blackened. Clotted blood was present. On probing the direction of the wound was poster lateral. On dissection the underlying tissues were lacerated congested and underlying ribs 4 to 7 were fractured. On further dissection and on opening the chest cavity, the heart was badly lacerated and the left lung in the middle was also lacerated and found to disc shaped and one pear shaped was and multiple pellets from the lung tissue. The left side of chest cavity was full of blood. Stomach contained partially digested food and gastric juices. Bladder contained 100 mls of urine.”

In their opinion the cause of death was hemorrhage and shock due to injury already described which was sufficient to cause death in the ordinary course of nature. The injury was ante mortem of nature. The time elapsed between injury and death was immediate and time elapsed between death and post mortem 12 to 24 hours.

27. He brought the original post mortem report. He proved its correct carbon copy Ex.P14 and pictorial diagram showing the receipt of injury as Ex.P15.

28. After post mortem they handed over to the police a sealed bottle with three seals containing two disc shaped and one pear shaped wad and multiple pellets. He proved the inquest report of the deceased Baljit Singh Ex.P16. On police request Ex. P 17 the kind of weapon used was declared as firearm vide endst. Ex. P 17/A.

29. In cross examination by counsel for the accused he stated that on the same day at 12.30 pm, he and Dr. Gobind Aggarwal conducted the post mortem examination of Gurjit Singh son of Kartar Singh Arora. They found the following injuries:

“1. Lacerated wound 3 cm x 1 cm muscle deep present just above the right eye brow. Clotted blood was present.

2. Lacerated wound 3 cm x 2 cm present on the bridge of nose. Clotted blood was present.

3. Lacerated wound 3 cm x 1.5 cm deep into bone present on the right half of forehead at middle. Clotted blood was present.

4. Both eyes are swollen and blackish in colour.

5. Lacerated wound 7 cm x 3 cm bone deep on the left occipital region of scalp just lateral to mid line situated obliquely. Clotted blood was present. Occipital temporal left frontal nasal bone were fractured in the occipital region, brain matter, meninges was lacerated, in the left temporal region middle meningeal artery lacerated and extra dural haemorrhage in injury no.5.

6. Lacerated wound 3 cm x 1 cm bone deep present on midline of occipital region. Clotted blood was present.

7. Swelling 4 cm x 4 cm in the left temporal region present.”

The cause of death in their opinion was due to comma and shock as a result of injury to brain and hemorrhage as a result of injuries suffered by the deceased which were sufficient to cause death in ordinary course of nature. The injuries were ante-mortem in nature. The time elapsed between injuries and death was immediate and death between death and post mortem was 12 to 24 hours.

30. He brought the original post mortem report and proved Ex.D1 as the correct carbon copy of the same. Pictorial diagram showing the seat of injuries was Ex.D2. Inquest report was Ex.D3.

31. PW9-Dr. Gobind Aggarwal Pathologist Civil Hospital, Abohar deposed that on 06.02.2006 he was posted as EMO in Civil Hospital, Abohar. He was on emergency duty from 2 to 8 PM. That day at about 5.15 pm Balbir Singh brought his brother Baljit Singh for admission in the emergency ward with alleged fire arm injury. On examination he declared that Baljit Singh was dead. He was about to inform the police but in the meanwhile many persons entered the emergency ward. There was noise of firing and the people were running away. He (PW 9) also ran away towards the blood bank. On his return to the emergency ward he found one more person lying dead. Meanwhile, the police came to control the situation. He sent ruqa Ex.P18 to SHO Police Station City Abohar. It was thumb marked by Balbir Singh.

32. He further deposed that the same day at 6.30 pm, he medico legally examined Balbir Singh Danewala s/o Partap Singh. He found the following injuries on his person:

1. Incised wound on the dorsum of right index finger extending from metacarp phalangeal joint upto distal phalynx. Fresh bleeding was present. X-ray was advised.

2. Incised wound 2 cm long on the ventral aspect of right index finger, proximal phalynx in the middle. Fresh bleeding was present and x-ray was advised.

3. Incised wound 3 cm x 2 cm on the right index finger on the palm 2 cm above the metacorpo- phalangeal joint of right index finger. Fresh bleeding was present. X-ray was advised.

All the three injuries were kept under observation for x-ray examination. Duration of the injuries was within 6 hours. Kind of weapon used for the injuries

was sharp. After receipt of the x-ray report injuries No.1 to 3 were declared simple in nature.

33. He deposed that the incident occurred in emergency ward in Civil Hospital Abohar. He had brought the original MLR. Ex.P19 was the correct carbon copy of the same. Ex.P19/A was the pictorial diagram showing the seat of injuries. He was also member of the Board of Doctors constituted for conducting post mortem of the deceased in this case. He had signed post mortem and inquest reports of both the deceased.

34. On police request Ex.P20, he had opined about the weapon used in the commission of the offence of the death of Gurjit Singh to be blunt vide his endst. Ex.P20/A.

35. In cross examination he stated that injured Balbir Singh had got admitted in the hospital of his own. He was conscious. All the injuries sustained by him were on non-vital parts. There is possibility of the injuries being self suffered. He denied that his opinion qua injuries on the person of Gurjit Singh being with blunt weapon was not correct. He denied that injury No.3 on the person of Gurjit Singh was a fire arm injury. Police reached the hospital at about 5.30/5.45 pm. He did not witness the occurrence that took place in the emergency ward of the hospital regarding injuries on the person of Balbir Singh.

36. PW11 HC Balwinder Singh deposed regarding conducting of post mortem of the bodies of Baljit Singh and Gurjit Singh @ Churla on 07.02.2006, the handing of the dead bodies to the relatives, the handing over of the wearing apparels of Baljit Singh and Gurjit Singh @ Churla to Inspector Ashardeep Singh.

37. PW12 DSP Arshdeep Singh, Sub-Division Nabha deposed that on 06.02.2006 he was posted as SHO, Police Station, City Abohar. On that day a telephonic message was received in the Police Station that there has been a firing incident in the Truck Union, Abohar. He along with other police officials went to the Truck Union where he came to know that Baljit Singh had received fire arm injury and had been taken to Civil Hospital, Abohar. There was a huge crowd at the truck union which was scattered by him and other police officials. Thereafter, he along with other police officials went to Civil Hospital, Abohar. There also there was a mob which was scattered by the police party. Then he went to the emergency ward, where Balbir Singh met him. A doctor was also present. The doctor gave him a ruqa Ex.P18 regarding the death of Baljit Singh. He recorded the statement Ex.P1 of Balbir Singh, made his endorsement Ex.P1/A thereon and sent it for registration of the case. FIR Ex.P1/B was registered. On his directions, photographer was brought to the hospital, who took 29 photographs in his presence. He proved the said photographs MO1 to MO29 and the negatives MO30 to MO58. He then inspected the spot on the demarcation of Rajvir Singh. He found marks of pellets struck in the wall of the dressing room of the Hospital at a height of two feet. Two .12 bore guns in broken condition were lying near the steel almirah in the dressing room. He checked the gun bearing No.21273/ 1997. On unloading the gun he recovered two empty cartridges of .12 bore. The gun and empty cartridges were converted in two separate parcels and sealed with the impression AS. He then checked the other gun bearing No.59780/96. It was without gripping arm. He unloaded the gun and two live cartridges of .12 bore

were found. The gun and live cartridges were converted into two separate parcels and taken into possession vide memo Ex.P5. He took into possession broken wooden pieces of gun and gripping arm bearing No.59780/96 and pieces of glass vide memo Ex.P3. He took into possession pellets from the place near the wall where the fire shots had hit along with wads vide memo Ex.P23. He lifted blood from near the dead body of Gurjit Singh @ Churla, prepared its parcel and took it into possession vide memo Ex.P4. He took into possession vide memo Ex.P6 one motorcycle bearing No.PB-C-3324 (Bajaj Black Colour) from outside the dressing near the reception of emergency ward. He prepared inquest report of dead body of Baljit Singh Ex.P16. Belongings of deceased Baljit Singh were taken into possession vide Ex.P24. He prepared inquest report of dead body of Gurjit Singh. Belongings of Gurjit Singh were taken into possession vide memo Ex.P25. Three live cartridges were found in the right pocket of his shirt which were sealed and taken into possession vide memo Ex.P2. He handed over Police request for conducting post-mortems Ex.P13 and Ex.P13/A. Thereafter, he inspected the emergency ward thoroughly and recorded the statements of the witnesses. He then went to Truck Union Abohar along with PW Rajvir Singh and PW Jaspal Singh. He inspected the spot on the demarcation of Jaspal Singh, from where he took two empty cartridges which were converted into parcels and sealed. He lifted blood stained concrete and simple concrete from the spot, which was converted into parcel and taken into possession vide memo Ex.P8. He recorded the statements of the witnesses including supplementary statement of Jaspal Singh. Then, he went to Civil Hospital, Abohar. There he was handed over the belongings of the deceased, police papers, postmortem reports etc., which were taken into possession vide memo Ex.P22. In order to ascertain the cause of death, he submitted two applications Ex.P17 and Ex.P20 to the doctor of both the deceased, who submitted his report Ex.P17/A and Ex.P20/A regarding deceased Baljit Singh and Gurjit Singh respectively. He prepared the site plan of the emergency ward on the demarcation of PW Rajvir Singh. On the demarcation of PW Jaspal Singh he prepared the site plan of the place of occurrence at the truck union. After receipt of FSL reports Ex.P26 and P27 he prepared the report under Section 173 Cr.P.C. He identified the case property.

38. In cross-examination he admitted that accused Gurdeep Singh, Gaganjit Singh and Gagandeep Singh were found innocent during investigation and were placed in column No.2. He did not know if accused Surender Singh was also placed in column No.2 or not. He had reached Civil Hospital at 6.00 PM. Ruqa Ex.P18 was handed over to him at about 6.35 PM. Gurjit Singh was already dead before his arrival in the Hospital. He had died due to injuries. He had not shown the articles i.e. guns, pellets and empties in column No.23 of the Inquest Reports as these were lying at some distance. He denied the suggestion that the broken guns etc. were lying near the dead body of Gurjit Singh Churla. No blood was lifted from the place where Balbir Singh received the injuries. He did not join any other independent witness in the Hospital. Empty cartridges were lifted from the truck union and these were intact and not deformed or tampered. He admitted that he had received a wireless message from Police Station Malout regarding admission of Gaganjit Singh in Civil Hospital, Malout. Thereafter, he asked SI Jalaur Singh to go to Civil Hospital, Malout to record the statement of Gaganjit Singh. The statement of Gaganjit Singh recorded by Jallaur Singh was attached with the file, but it was not

believable. SI Jalaur Singh had sent the statement of Gaganjit Singh with his endorsement that a case under Section 307/324 IPC was made out against Balbir Singh and others. SI Ranjit Singh was deputed on guard duty when Gaganjit Singh was lying at Hospital at Malout. At the time of his arrest, the leg of Gaganjit Singh was in plaster, but he could walk. He however, did not remember that he could walk only with the help of clutches as his leg was broken.

39. PW13 SI Ranjit Singh deposed that on 14.02.2006 he was posted as Additional SHO in Police Station City Abohar. That day on receipt of telephone from GGS Medical College and Hospital, Faridkot regarding discharge of Gaganjit Singh he went to the Hospital where Gaganjit Singh was in Police custody. He arrested him. On interrogation, accused Gaganjit Singh suffered disclosure statement Ex.P31 that he had kept parked a car bearing RC No.DL-3-C-P6444 (Maruti white) in his poultry farm and got the same recovered. Thereafter, he took into possession the said Maruti car, arms licence of .12 bore gun bearing No.268/96/Abohar valid upto 18.12.2006, driving licence of Gaganjit Singh vide memo Ex.P32.

40. In cross-examination he stated that Police guard on Gaganjit Singh was deputed previously in the hospital w.e.f. 07.02.2006. The accused was medico- legally examined at Civil Hospital, Malout. He was referred from Malout to GGS Faridkot. He was produced before the Ilaqa Magistrate on 15.02.2006 for seeking police remand. He was physically lifted by the Police party while producing him in Court.

41. PW14 SI Jalaur Singh deposed that on 06.02.2006 he was posted as Additional SHO, Police Station City Abohar. He deposed that from the dead body of deceased Baljit Singh, one gold ring weighing 5 grams, one Titan watch and one gold kara weighing 1¼ tola were recovered and taken into possession vide memo Ex.P4. From the dead body of Gurjit Singh @ Churla, one gold kara weighing 3 tolas, one gold chain weighing 1½ tolas and three chains were recovered and taken into possession vide memo Ex.P25. On 06.02.2006, the investigation of the case was entrusted to him. He went to Civil Hospital, Malout and recorded the statement of Gaganjit Singh on the basis of which DDR was entered in the Roznamacha.

42. PW15 Constable Sukhraj Singh brought the summoned record relating to FIR No.205 dated 27.06.2007 under Sections 302/307/324/148/149 IPC and Sections 25 and 27 of the Arms Act against Balbir Singh, etc. He placed on record a photocopy of the same as Ex.P37.

43. DW1 Darshan Singh deposed that he was operating a truck in Truck Union, Abohar. On 06.02.2006 at about 4.30/5.00 pm, he was present there along with Avtar Singh and other truck operators. Gurjit Singh (deceased) and Gaganjit Singh came there for the purpose of Pukar. Balbir Singh, President of Truck Union and his brother Baljit Singh (deceased) were also present there. Other persons were also present. Balbir Singh was armed with gandasi, Baljit Singh was armed with Kirpan. They stated that they have dispute with them and they should be taught a lesson. They attacked Gaganjit Singh and caused multiple injuries to him with their respective weapons. In order to save Gaganjit Singh, Gurjit Singh brought his .12 bore gun from the car and fired a shot which hit Baljit Singh, as a result of which he died. Baljit Singh was moved to Civil Hospital, Abohar by Balbir Singh and others. Gaganjit Singh was brought

to Civil Hospital by car by Gurjit Singh, him (DW1) and Avtar Singh and 1-2 more persons. There Gurjit Singh took Gaganjit Singh to emergency ward. He (DW 1) thereafter returned back. Rest of the accused present in Court were not present at the time of the occurrence at Truck Union, Abohar. He stated that he did not know the other truck operators who were present there. Again said that Rajvir Singh and Jaspal Singh were not present there at the time of occurrence.

44. During evidence, Ld. counsel for the accused made a statement that he did not dispute the issuance of Arms Licence in the name of Gaganjit Singh for possession of .12 bore DBBL gun. In view thereof, the Ld. PP gave up PW Jaganath Arms Clerk as unnecessary and tendered into evidence the Arms Licence of accused Gaganjit Singh as Ex.P21.

45. Similarly, Ld. Counsel for accused Gaganjit Singh did not dispute the ownership of Car No.DL-3CF-6449 Maruti 800 as belonging to Gaganjit Singh. In view thereof, the Ld. PP gave up two PWs namely HC Sukhpal Singh and RC Clerk Hiring Authority, Motor Vehicles Delhi along with ASI Satwant Singh and HC Rangdev Singh as unnecessary. The Ld. PP tendered into evidence the verified copy of the complaint dated 12.08.2006 titled Gaganjit Singh vs. Baljit Singh, etc. as Ex.P38.

46. DW2-Dr. Jagdip Chawla deposed that on 06.02.2006 he was posted as Medical Officer, Civil Hospital Malout. That day at 6/6.45 pm he examined injured Gaganjit Singh son of Kartar Singh. He was conscious and oriented. Pulse rate was 90/min. He observed the following injuries:

1. *“Lacerated wound 6.5 x 0.5 on the middle of forehead 0.7 cm above eye brow bone deep transversely placed. Fresh bleeding was present and x-ray was advised.*
2. *Swelling 8 x 6 cm on left side of the face over maxilla. X-ray was advised.*
3. *Lacerated wound V shape on the right temporal area 10 cm above the right ear, one limb 8 x 0.5 cm and other is 5 x 1 cm bone deep wound and x-ray was advised.*
4. *Four incised wound width 0.6 cm, length varying from 1 to 6 cm deep upto muscle, transversely placed on the lateral side of the right arm from shoulder to distal arm. Fresh bleeding was present and x-ray was advised.*
5. *Incised wound 6 x 0.6 cm on lateral side of left arm in its middle, Clotted blood was present and x-ray was advised.*
6. *Multiple bruises on the back. X-ray was advised.*
7. *Lacerated wound 3 x 1 cm overlying a swelling 6 x 4 cm over the middle of front of right leg, muscle deep. Clotted blood was present and x-ray was advised.”*

Duration of injuries was within twenty four hours. Weapon used was blunt for injuries No.1,2,3,6 and 7 and sharp for injuries no.4 and 5. He brought the original MLR Report. Photocopy of the same was Ex.D3, its pictorial diagram showing the seats of injuries was Ex.D3/A. After x-ray examination he found injury no.7 as grievous in nature.

47. The patient was referred to Shri Guru Gobind Singh Medical College

Faridkot as no orthopaedic Surgeon was posted at Civil Hospital, Malout.

48. In his cross examination by Ld. Public Prosecutor he admitted that except injuries No.4 and 5 none of the other injuries was with sharp edged weapon. Both injuries No.4 and 5 were on the arms. Stitching was needed for injuries No.4 and 5 to stop the bleeding. He was a surgeon and stitching was done by him under local anaesthesia. After stitching the wounds No.4 and 5, he conducted the medicolegal examination himself. He had not referred the patient to any other doctor entitled to conduct the medical examination. Voluntarily stated that as the leg of the patient was fractured he could not say how he had reached the hospital. No attendant approached him at the time of examination but they reached the hospital after 2/3 hours.

49. DW4 Dr-Radhey Sham, Associate Professor Orthopaedic, Government Medical College, Amritsar deposed that on 07.02.2006 he examined patient Gaganjit Singh son of Kartar Singh, who was referred by Civil Hospital, Malout for treatment. He along with Dr. Kamal Arora and Dr. Gaurav applied plaster of paris cast after closed reduction on right leg as the patient was having fracture of right tibia. He brought the original bed head ticket Ex.D8. The patient was discharged from Medical College, Amritsar on 14.02.2006 after x-ray examination. He proved the pre- treatment X-ray film as Ex.D9 and post treatment x-ray film Ex.D10.

50. From the evidence it emerges that the case was registered on the statement of PW1 Balbir Singh. PW 1 deposed that he was President of Truck Union, Abohar. On 06.02.2006 a meeting of the truck union with other truck unions was to be held in the office of Truck Union, Abohar. He along with his brother Baljit Singh Sarpanch, Jaspal Singh and Rajvir Singh residents of his village came there on a jeep bearing Reg.No.PB-04F-1404. After leaving him in the office of the truck union, Baljit Singh Sarpanch and others went to the Bazar in the Jeep. At about 4.45 pm, the meeting of the truck union with representatives of other unions was going on and Pukar was also going on. Meanwhile, Baljit Singh, Rajvir Singh and Jaspal Singh came back to the truck union on the jeep. His brother Baljit Singh called him outside the meeting room. As he and his brother Baljit Singh were standing in the courtyard, Gurjeet Singh @ Churla along with Inderjit Singh came on a black colour Bajaj motorcycle bearing Reg.No.PB-15C-3324. Gurjit Singh was armed with .12 bore DBBL gun, Inderjit Singh was armed with Kirpan. Behind them, Gaganjit Singh armed with .12 bore DBBL gun, Gagandeep Singh armed with handle of spade, Gurdeep Singh armed with Kirpan, Surinder Pal Singh armed with handle of spade Jit Singh alias Jita Mota armed with handle of spade came there in a white Maruti car bearing No.DL-3C-F-6449. Gurdeep Singh raised lalkara that he (PW1) and his brother Baljit Singh who was his big supporter should not go scot free. The remaining accused started abusing them. Gaganjeet Singh fired from his gun at Baljit Singh. The shot hit Baljit Singh on the chest and he fell down. Gaganjeet Singh fired another shot, which passed over the head of PW1. He raised alarm on which persons from Pukar Room and few others came there. The accused fled away on their vehicles. PW1 (Balbir Singh) along with Rajvir Singh and Balkar Singh took his brother Baljit Singh to Civil Hospital, Abohar in the jeep, where the doctors declared him dead. He, Jaspal Singh and Rajvir Singh were present in the emergency ward of the hospital. Suddenly all the above named accused came to the hospital with their weapons. Gurjeet Singh and Inderjit Singh came on motorcycle and

entered the emergency ward of the Civil Hospital riding on it. Gurjeet Singh was armed with a .12 bore DBBL gun and Inderjit Singh with Kirpan. The remaining accused also entered the emergency ward after alighting from the car with their respective weapons. Jeet Singh @ Jita Mota and Surender Pal Singh raised lalkara that Balbir Singh, President had escaped at the Truck Union and that he be not spared and be killed. Gurjeet Singh @ Churla fired two shots at him with his .12 bore gun. However, he ducked and the shots hit the wall behind him. Accused Inderjit Singh aimed a kirpan at him. He tried to save himself by raising his right hand and the kirpan hit on his index finger. Another kirpan blow inflicted by Gurdeep Singh hit him on the right index finger. Inderjit Singh inflicted another kirpan blow on his right palm. Accused Jeet Singh @ Jita Mota started breaking the window panes with the handle of spade. Meanwhile, a mob which had gathered outside entered the emergency ward, snatched the guns from the hands of Gurjeet Singh @ Churla and Gaganjeet Singh. In order to save him (PW 1) and others the mob inflicted injuries on the head of Gurjeet Singh causing him to fall down. Seeing Gurjeet Singh fall, the remaining accused fled away along with their weapons in the car. The motorcycle was left behind in the emergency ward. The guns snatched by the mob were left in the emergency ward. The butts of the guns were broken. Other weapons were taken away by the accused. The motive behind the occurrence was that Gurjeet Singh @ Churla was President of Truck Union, Abohar and Gaganjeet Singh accused, who was his brother was the Executive Member of the said Union at that time. PW1 Baljit Singh had become President of the Union for the last 2 ½ years. On that account, they bore a grudge against him. They had murdered his brother and made a murderous assault on him. Gurjeet Singh and Gaganjeet Singh wanted to be President of the Truck Union.

51. PW2 Rajvir Singh and PW3 Jaspal deposed broadly on similar lines.

52. Thus, as per the prosecution version in the initial occurrence which took place at the Truck Union, Abohar, Gaganjit Singh fired a gun shot which hit on the chest of deceased Baljit Singh. He also fired a second gun shot which passed over the head of PW1 Balbir Singh. Gurdeep Singh was alleged to have raised the lalkara that Balbir Singh -the President of the Truck Union and his brother PW1 Balbir Singh should not be allowed to go scot free. The remaining accused are only alleged to have uttered abuses. However no overt act or injury to the deceased or any of the PWs is attributed to them.

53. The second occurrence is alleged to have taken place at Civil Hospital Abohar. As per PW1, PW2 and PW3 they took injured Baljit Singh in the jeep to Civil Hospital, Abohar where the doctors declared him dead. When they were present in the hospital all the accused came to the hospital with their weapons. Gurjeet Singh and Inderjit Singh came on motorcycle and entered the emergency ward of the Civil Hospital on it. Gurjeet Singh was armed with a .12 bore DBBL gun and Inderjit Singh with Kirpan. The remaining accused also entered the emergency ward with their respective weapons. Jeet Singh @ Jita Mota and Surender Pal Singh raised lalkara that Balbir Singh, President had escaped at the Truck Union and that he be not spared and be killed. Gurjeet Singh @ Churla fired two shots at PW1 Balbir Singh with his .12 bore gun. However, he ducked and the shots hit the wall behind him. Accused Inderjit Singh aimed a kirpan blow at him. He tried to save himself by raising his right hand and the kirpan hit on his index finger. Another kirpan blow inflicted by

Gurdeep Singh also hit Balbir Singh on the right index finger. Inderjit Singh inflicted another kirpan blow on his right palm. Accused Jeet Singh @ Jita Mota started breaking the window panes with the handle of spade. Meanwhile, a mob which had gathered outside entered the emergency ward, snatched the guns from the hands of Gurjeet Singh @ Churla and Gaganjeet Singh. The mob inflicted injuries on the head of Gurjeet Singh causing him to fall down. Seeing Gurjeet Singh fall, the remaining accused fled away along with their weapons in the car. The motorcycle was left behind in the emergency ward. The guns snatched by the mob were left in the emergency ward. The butts of the guns were broken. Other weapons were taken away by the accused.

54. Thus, as per the prosecution at the Civil Hospital, Abohar, Gurjeet Singh fired two gun shots at PW1 Balbir Singh but PW1 escaped by lying down. The shots hit the wall. Meanwhile, a mob snatched the gun of Gurjeet Singh and inflicted injuries to him as a result of which he died. Gaganjit Singh, though stated to be armed with a .12 bore gun was not attributed any overt act in the incident which took place at Civil Hospital, Abohar. However, he has died and the appeal qua him has abated. Surinder Pal Singh who was armed with handle of spade was only alleged to have raised a lalkara. He has since died and the appeal qua him has abated. Gurdeep Singh was alleged to have given a blow with a sword which hit the right hand of PW1 Balbir Singh. He however has been acquitted. Gagandeep Singh who was alleged to have been armed with handle of spade has not been attributed any overt act in the incident at Civil Hospital, Abohar. Jeet Singh @ Jita Mota and Surender Pal Singh raised lalkara that Balbir Singh, President had escaped at the Truck Union and that he be not spared and be killed. Jeet Singh has since died and the appeal qua him has abated. Accused Inderjit Singh is alleged to have given two blows with sword which hit on the right index finger and palm of right hand of PW1 Balbir Singh.

55. Thus, it is that during the pendency of the appeal the main accused Gaganjit Singh who is alleged to have inflicted the fatal gun shot which caused the death of Baljit Singh has died. Hence, we need not go into the veracity of the defence version that the incident at Truck Union was caused due to the act of the deceased and PW1 in attacking Gaganjit Singh and Gurjit Singh (since dead) firing at Baljit Singh in order to save Gaganjit Singh. Ajit Singh who was alleged to have raised lalkara at the Civil Hospital that PW1 Balbir Singh be not spared, has also died.

56. The three surviving appellants are Inderjit Singh, Surinder Pal Singh and Gagandeep Singh. Appellant Gagandeep Singh is alleged to be armed with handle of spade. He has not been attributed any overt act in the occurrence either at the Truck Union or at Civil Hospital. Inderjit Singh and Surinder Pal Singh have not been attributed any overt act at the Truck Union. In the occurrence at the Civil Hospital, Surinder Pal Singh along with Ajit Singh is alleged to have raised lalkara that PW1 Balbir Singh be not spared.

57. In his cross examination PW1 Balbir Singh has admitted that accused Gurdip Singh, Gurjit Singh and Gaganjit Singh were brothers. They had no other brother. Surender Singh is son of accused Gurjit Singh. Accused Inderjit Singh is brother-in-law of Gaganjit Singh. Accused Ajit Singh is son of maternal aunt of accused Gaganjit Singh. It is also on record that accused Gagandeep Singh is son of accused Gurdeep Singh. All the accused are thus related to

each other. Except accused Gaganjit Singh and Ajit Singh, no other accused owned any truck at the time of occurrence. Hence, there was no occasion for them to be present at the Truck Union. In any event, considering that no overt act has been attributed to Gagandeep Singh in either occurrence and that the only role attributed to accused Surinder Pal Singh is of raising a lalkara at the time of the second occurrence and both of them were alleged to be armed only with handle of spade, and the fact that they are all members of one family, the chances of their false implication cannot be ruled out. They have been convicted for offence under Section 148 and sentenced for one year. They have also been convicted for offence under Section 302/149 IPC. Their appeal is accepted and they are acquitted of the charges by giving them the benefit of doubt.

58. As for accused Inderjit Singh he is alleged to have given two blows with sword which hit on the right index finger and palm of right hand of PW1 Balbir Singh. As per PW9 Dr. Gobind Aggarwal Pathologist Civil Hospital, Abohar these injuries were caused with sharp weapon and were simple in nature. Though the defence has made a valiant attempt to argue that these injuries were actually self suffered and could not have been caused in the manner as suggested by the prosecution, but the fact of the matter is that the injuries have been sustained by PW1 Balbir Singh. PW2 and PW3 have supported the version of PW1. There was no occasion for PW1 Balbir Singh to inflict these injuries on himself only with a view to implicate accused Inderjit Singh at a time when his brother had died in the incident at the Truck Union.

59. Hence, considering the fact that no overt act has been attributed to Inderjit Singh in the incident at the Truck Union and his presence is doubtful he is acquitted of the charges under Section 148 and Section 302/149 IPC by giving him the benefit of doubt. However, his conviction under Section 324 IPC and the sentence thereunder are maintained.

60. Accordingly, Criminal Appeal No.D-444-2009 qua Gagandeep Singh is allowed and he is acquitted of all the charges framed against him. His sentence has already been suspended during the pendency of the appeal. His bail bonds and surety bonds stand discharged. Qua Inderjit Singh, the appeal is partly allowed. He is acquitted of the charges under Section 148 IPC and Section 302/149 IPC. His conviction under Section 324 IPC and the sentence awarded thereunder are maintained. As reflected in the order dated 18.03.2010 vide which the sentence of Inderjit Singh was suspended, he had already undergone more than four years of sentence. In view thereof, his bail and surety bonds are discharged.

61. Criminal Appeal No.D-467-DB-2009 of Surinder Pal Singh is also allowed and he is acquitted of all the charges framed against him. His sentence has already been suspended during the pendency of the appeal. His bail bonds and surety bonds stand discharged.

62. In view of the aforesaid, Criminal Revision No.3151 of 2009 is dismissed.

Order accordingly.
