



CRA-549-DB-2003 (O&M)  
CRA-D-556-DB-2003 (O&M) &  
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**In the High Court of Punjab and Haryana at Chandigarh**

1. **CRA-549-DB-2003 (O&M)**  
**Reserved on: 12.8.2024**  
**Date of Decision: 23.8.2024**

Daljinder Singh and others .....Appellants

Versus

State of Punjab .....Respondent

2. **CRA-D-556-DB-2003 (O&M)**

Harjinder Singh @ Babbu .....Appellant

Versus

State of Punjab .....Respondent

3. **CRR-1692-2003**

Prabhjit Singh .....Petitioner

Versus

Daljinder Singh and others .....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR**  
**HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

**Argued by:** Dr. Anmol Rattan Sidhu, Senior Advocate assisted by  
Mr. Bhisam Kinger, Advocate  
for the appellants (in CRA-549-DB-2003).

Proceedings against Appellant No. 4-Santokh Singh and  
Appellant No. 7-Balwinder Singh (in CRA-549-DB-2003)  
already stand abated.

Mr. Anmol Pratap Singh Mann, Advocate with  
Mr. Navjot Singh Sidhu, Advocate  
for the appellant (in CRA-D-556-DB-2003).

Mr. Sudhir Sharma, Advocate and  
Mr. R.K.Rana, Advocate for the petitioner (in CRR-1692-2003)  
and for the complainant  
(in CRA-549-DB-2003 & CRA-D-556-DB-2003).

Mr. Maninderjit Singh Bedi, Addl. A.G., Punjab.

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**SURESHWAR THAKUR, J.**

1. Since both the appeals (supra) as well as the criminal revision petition (supra) arise from a common verdict, made by the learned trial Judge concerned, hence both the appeals (supra) as well as the revision petition (supra) are amenable for a common verdict being made thereons.

2. All the (supra) are directed against the impugned verdict, as made on 10.6.2003, upon case bearing No. 39/2.2.2000, by the learned Additional Sessions Judge (Adhoc), Fast Track Court, Patiala, wherethrough in respect of charges respectively drawn against the accused-appellants qua offences punishable under Sections 120-B IPC, and, under Section 302 read with Section 120-B IPC, thus the learned trial Judge concerned, proceeded to record a finding of conviction against the appellants-convicts under Sections 302 IPC and under Section 120-B IPC.

3. Moreover, through a separate sentencing order of even date, the learned trial Judge concerned, sentenced all the convicts-appellants, to undergo imprisonment for life for an offence punishable under Section 302 IPC, besides also imposed upon the convicts-appellants sentence of fine, comprised in the sum of Rs. 1,000/- each, besides in default of payment of fine amount, he sentenced all the convicts-appellants to undergo rigorous imprisonment for a period of six months. The learned convicting Court concerned, also sentenced all the convicts-appellants to undergo rigorous imprisonment for six months for an offence punishable under Section 120-B IPC.

4. All the above imposed sentences of imprisonment upon the convicts-appellants, were ordered to run concurrently. However, the period of detention undergone by the accused-appellants, during the investigations,



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and, trial of the case, was, in terms of Section 428 of the Cr.P.C., rather ordered to be set off from the above imposed sentence(s) of imprisonment.

5. Convicts-appellants Daljinder Singh, Manjit Singh, Ranjit Singh, Santokh Singh, Narinder Singh, Jaspal Singh @ Kala and Balwinder Singh become aggrieved from the above drawn verdict of conviction, besides also, become aggrieved from the consequent thereto sentences of imprisonment, and, of fine as became imposed, upon them, by the learned convicting Court concerned, and, hence have chosen to institute thereagainst the criminal appeal bearing No. **CRA-549-DB-2003**.

6. Convict-appellant Harjinder Singh @ Babbu becomes aggrieved from the above drawn verdict of conviction, besides also, becomes aggrieved from the consequent thereto sentences of imprisonment, and, of fine as became imposed, upon him, by the learned convicting Court concerned, and, hence has chosen to institute thereagainst the criminal appeal bearing No. **CRA-D-556-DB-2003**.

7. Complainant Prabhjit Singh has preferred Criminal Revision No. 1692 of 2003 seeking adequate sentence being awarded to the convicts. He has also made a prayer therein, that a heavy amount of fine be imposed upon the convicts and the said amount be disbursed to his family.

8. During the pendency of **CRA-549-DB-2003**, appellant No. 4 Santokh Singh and appellant No. 7 Balwinder Singh died, and, proceedings qua them were ordered to become abated.

### **Factual Background**

9. The genesis of the prosecution case, becomes embodied in the appeal FIR, to which Ex. PG/2 is assigned. As per the prosecution case, on 14.9.1999, SI Amarjit Singh along with police party was present at Bhadak



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Petrol Pump in connection with patrolling. Prabhjit Singh son of Gurmail Singh Jat resident of Gandakheri made his statement Ex. PG before SI Amarjit Singh that he is the resident of the above address and is a cultivator. They are three brothers. Gurtej Singh is the eldest and youngest is Gurpreet Singh. His father was working as a Petition Writer in Court Complex, Rajpura. Last night, at about 9.00 P.M., his father Gurmail Singh after taking dinner, had gone to the motor to irrigate paddy fields. Today on 14.9.1999 at about 6.00 A.M., he had gone to the said motor with tea for his father, and when he entered the motor kotha, he saw his father lying dead smeared with blood and having injuries on his mouth and head. There were marks of deep wounds on his head. He came to his house and narrated the whole occurrence to his family members and raised alarm. He has further stated therein, that a case for partition of agriculture land and family land was pending in the Rajpura Courts between his father and Uncle (Taya) Santokh Singh. However, with the intervention of relatives and Amarjit Singh son of Tejinder Singh Lambardar of their village, the matter was got compromised 4-5 months back and the case was withdrawn from the Court. However, in spite of this, compromise regarding Abadi land was not implemented. Santokh Singh, his sons Daljinder Singh, Manjit Singh Fauji and Ranjit Singh had resiled from the said compromise. It is further narrated therein, that last year also a dispute had arisen between the parties about the partition of the land and both these parties were proceeded under Sections 107/151 Cr.P.C. There used to be a dispute about their rasta or house with Harjinder Singh alias Babbu son of Harnek Singh their neighbour and a compromise was effected in this respect and in spite of that compromise, Harjinder Singh used to initiate dispute for the same. He has a



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definite suspicion that the above referred persons after conspiring together on account of the above grouse, have murdered his father Gurmail Singh with sharp edged weapons at the motor. He further states, that it is possible that some other persons may have joined the above referred persons to murder his father. He sent his brother Gurtej Singh and other persons of the village to guard the dead body of his father and he along with his younger brother Gurpreet Singh and other residents of the village were coming to lodge the report where Amarjit Singh SI met. The said statement Ex. PG was read over to Prabhjit Singh, who signed the same after admitting its contents to be correct and SI Amarjit Singh attested the same. Subsequently, SI Amarjit Singh sent Ex. PG vide his endorsement Ex. PG/1 to the police station for registration of the case through C.II Harjinder Singh, and, on that basis, formal FIR (Ex. PG/2) was recorded.

#### **Investigation proceedings**

10. During the course of investigations, the investigating officer visited the spot, and, recorded the statements of the witnesses. The dead body was sent for post-mortem examination. Blood stained earth was lifted from the spot and were put in four different plastic boxes. Thereafter four different parcels Ex. MO17 to Ex. MO20 were prepared which became sealed with seal bearing impression 'AS' and were taken into police possession vide recovery memo Ex. PH. Sample seal was prepared separately and seal after use was handed over to HC Jagir Singh. One piece of cloth of shirt from the destroyed paddy was also lifted and made into parcel and sealed with seal bearing impression 'AS'. The parcel Ex. MO21 was taken into possession vide recovery memo Ex. PI. Rough site plan was prepared. Accused Daljinder Singh, Manjit Singh and Harjinder Singh were



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arrested. Disclosure statements of the accused were recorded pursuant to which, relevant recoveries were were effected. The remaining accused were arrested. After conclusion of investigations, the investigating officer concerned, proceeded to institute a report under Section 173 of the Cr.P.C., before the learned committal Court concerned.

### **Committal Proceedings**

11. Since the offence under Section 302 of the IPC was exclusively triable by the Court of Session, thus, the learned committal Court concerned, through a committal order made on 24.1.2000, hence proceeded to commit the accused to face trial before the Court of Session.

### **Trial Proceedings**

12. The learned trial Judge concerned, after receiving the case for trial, after its becoming committed to him, made an objective analysis of the incriminatory material, adduced before him. Resultantly, he proceeded to draw charges against all the accused-appellants for the offences punishable under Section 120-B IPC, and, also drew charges against accused-appellants Daljinder Singh, Manjit Singh, Narinder Singh and Jaspal Singh for an offence punishable under Section 302 IPC. The learned trial Judge concerned, also drew charges against accused-appellants Ranjit Singh, Santokh Singh, Harjinder Singh and Balwinder Singh for an offence punishable under Section 302 read with Section 120-B IPC. The afore drawn charges were put to the accused, to which they pleaded not guilty, and, claimed trial.

13. In proof of its case, the prosecution examined 15 witnesses, and, thereafter the learned Public Prosecutor concerned, closed the prosecution evidence.



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14. After the closure of prosecution evidence, the learned trial Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused pleaded innocence, and, claimed false implication. The accused-appellants led three defence witnesses into the witness box.

15. As above stated, the learned trial Judge concerned, proceeded to convict all the accused-appellants for the charge(s) (supra), as became drawn against them, and, also as above stated, proceeded to, in the hereinabove manner, impose the sentence(s) of imprisonment, as well as of fine, upon both the accused-appellants.

**Submissions of the learned counsels for the appellants**

16. The learned counsels for the aggrieved convicts-appellants have argued before this Court, that both the impugned verdict of conviction, and, the consequent thereto order of sentence, thus require an interference. They support the above submission on the ground, that they are based on a gross misappreciation, and, non-appreciation of evidence germane to the charge. They further rest the above submissions *inter alia* on the ground,

(i) That in the instant case, appellants Jaspal Singh and Narinder Singh were not named in the FIR by complainant Prabhjit Singh, and, their names occur only in the deposition of PW-8 Jagdeep Singh, wherein he stated that he had informed one Gurtej Singh about his last seeing together, thus appellants Narinder Singh and Jaspal Singh along with appellants Daljinder Singh and Manjit Singh on the night of murder of the deceased.

(ii) That though Jagdeep Singh (PW-8) is a close relative of the deceased, however, in his statement recorded under Section 161 Cr.P.C., he had not specifically named appellants Narinder Singh and Jaspal Singh.



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(iii) That the evidence of PW-6 Gurtej Singh is not admissible in evidence being only hearsay evidence.

(iv) That Gurmeet Singh (PW-9) in his cross-examination deposed that he came to village Gandakheri at about 2.30 P.M. on 14.9.1999 but the police was not present there and after the funeral his going back to his village and his thereafter never meeting the police. Thus, they submit that no reliance can be placed on the deposition of the said witness.

(v) That the testimony of PW-14 Ajaib Singh, before whom appellants Daljinder Singh, Manjit Singh, Narinder Singh and Jaspal Singh, had allegedly made extra-judicial confession(s), has rightly been disbelieved by the learned trial Court concerned.

**Submissions of the learned State counsel**

17. On the other hand, the learned State counsel has argued before this Court, that the verdict of conviction, and, consequent thereto sentence(s) (supra), as become imposed upon the convict, are well merited, and, do not require any interference, being made by this Court in the exercise of its appellate jurisdiction. Therefore, he has argued that both the appeals (supra), as preferred by the convicts-appellants be dismissed.

**Analysis of the deposition made by PW-8 and the reasons for dispelling the same. The said witness propagated the theory of last seen together of the accused.**

18. Before proceeding further, it is necessary to extract the contents occurring in the examination-in-chief of PW-8 Jagdeep Singh, contents whereof become extracted hereinafter.

*“On 13.9.1999 at about 10.00 P.M. I was going from village Khairpur Jattan via Ganda Kheri. Two persons wearing parnas were travelling on scooter No. PB-11G-7800 in front of me. I was also going on my scooter. The scooter in front of me was being*





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*driven by Narinder Singh son of Hazara Singh. Jaspal Singh son of Sondha Ram was sitting on the pillion seat. They are both present in Court today. The said persons stopped their scooter near Milk Centre of Daljinder Singh and went inside the centre. Then I went to the house house of Gurtej Singh to meet him. I started from village Ganda Kheri after half an hour. I had to go to village Khairpur Jattan. There is a kacha path leading to village Kharipur from the main road. When I reached the said path then in the light of my scooter I saw Daljinder Singh, Manjit Singh, Narinder Singh, Jaspal Singh going towards the kacha path. All were going on foot. Narinder Singh was holding the scooter by walking. Then I continued my journey to village Kharipur Jattan. Next day I reached my village Chandua. I came to know that Gurmail Singh while sleeping on the motor had been murdered (objected to). On hearing this I came to village Ganda Kheri for condolence purpose. I told Gurtej Singh that I had seen Daljinder Singh, Manjit Singh Fauji, Narinder Singh and Jaspal Singh on the previous night and they were going towards kacha path leading to village Gazipur. Daljinder Singh and Manjit Singh Fauji are present in Court. I have a strong suspicioun that Gurmail Singh had been murdered by the above mentioned four persons (objected to).”*

19. However, before proceeding to assign credence to the hereinabove extracted speakings, as occur in the examination-in-chief of PW-8, it is deemed imperative to also allude to the speakings, as occur in the cross-examination of the said witness.

20. The necessity of making an allusion to the speakings, as occur in the cross-examination of PW-8 emanates, to thus therefrom make discernments whether the speakings (supra), as exist in the examination-in-chief of PW-8, rather becoming infected with any vices, inasmuch as, therebys the witness (supra) making rife improvements or embellishments viz-a-viz his previously made statement in writing to the police officer concerned. In the said endeavour, the relevant portion of the cross-



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examination of the witness (supra) becomes extracted hereinafter.

*“I had not stated in my statement before the police that I had a strong suspicion that the four persons mentioned by me above had committed the murder of Gurmail Singh. I had stated in my statement before the police that I had told Gurtej Singh that I had seen Daljinder Singh, Manjit Singh, Jaspal Singh and Narinder Singh going towards kacha path leading to village Gazipur. (Attention of the witness is drawn to Ex. DA/J where the names of Narinder Singh and Jaspal Singh are not specifically mentioned in portion A to A1). I had stated before the police that Narinder Singh was walking along with the scooter but the said fact might not have been recorded in my statement by the police (Confronted with statement Ex. DA/J where it is not so recorded).”*

21. A reading of the above extracted portion of the cross-examination of the witness (supra), reveals that the speakings as occur in his examination-in-chief, that he had strong suspicion that the accused had committed the murder of deceased Gurmail Singh, besides the further speaking, as occurs therein, that he had told Gurtej Singh, that he had seen accused Daljinder Singh, Manjit Singh Fauji, Narinder Singh and Jaspal Singh, going towards kacha path leading to village Gazipur, rather not occurring in his previously made statement to the police officer concerned. Moreover, the further speaking made by him in his examination-in-chief qua accused Narinder Singh walking along with the scooter, but is also an improvement or embellishment made by him over his previously made statement in writing. Therefore, the result of the above gross improvements or rife embellishments being made by the witness (supra) over his previously made statement in writing to the police officer concerned, is that, thereby his deposition becomes unworthy of credence being assigned thereto.



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**Analysis of the deposition made by PW-9 and the reasons for dispelling the same. The said witness also propagated the theory of last seen together of the accused.**

22. The contents occurring in the examination-in-chief of PW-9 Gurmeet Singh become extracted hereinafter.

*“I was married with Paramjit Kaur daughter of Hari Singh about 23 years ago. My wife belongs to village Ganda Kheri. Gurmail Singh deceased is the brother of Hari Singh. On 14.9.1999 I came to know that Gurmail Singh had been murdered on the night of 13.9.1999. About 10 days prior to the murder of Gurmail Singh I had gone to meet Manjit Singh Fauji at the Milk Centre of Daljinder Singh in village Ganda Kheri. When I reached there Mohinder Singh Ex-Sarpanch, Harjinder Singh, Daljinder Singh and Manjit Singh were already present there. Mohinder Singh and Harjinder Singh then said Mohinder Singh was telling Manjit Singh and Daljinder Singh that they had taken money from him and Harjinder Singh but had not done the work of his uncle (Chacha). Manjit Singh said that the job would be done as they had talked to some persons and in case the job was not done, their money would be returned. Santokh Singh and Gurmail Singh were having some land dispute. About 4-5 months prior to the occurrence I had got the dispute compromised. Both the parties had withdrawn their civil suits and the land was partitioned. On 14<sup>th</sup> I had gone for condolence to the house of Gurmail Singh and I remembered the talk I had heard at the Milk Centre. The amount had been paid for the murder of Gurmail Singh (Objected to being opinion). All the accused are present in Court.”*

23. However, before proceeding to assign credence to the hereinabove extracted speakings, as occur in the examination-in-chief of PW-9, it is deemed imperative to also allude to the speakings, as occur in the cross-examination of the said witness.

24. The necessity of making an allusion to the speakings, as occur in the cross-examination of PW-9 emanates from to, thus therefrom make



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discernments whether the speakings (supra), as exist in the examination-in-chief of PW-9, rather becoming infected with any vices qua therebys the witness (supra) making rife improvements or embellishments viz-a-viz his previously made statement in writing to the police officer concerned. In the said endeavour, the relevant portion of the cross-examination of the witness (supra) becomes extracted hereinafter.

*“I had stated to the police that the money had been paid for the murder of Gurmail Singh (Confronted with statement Ex. DB where it is not so recorded specifically).*

*x x x x*

*I had come to the village on 14.9.1999 i.e. village Ganda Kheri at about 2.30 P.M. There was no police in the house of Gurmail Singh when I had gone. I had not gone to the place from where the dead body was recovered. I did not go to the fields from where the dead body was recovered. I do not know if the police had gone to the fields or not. The funeral had taken place at 4.00 P.M. on 14.9.1999. The dead body had reached after post-mortem after about two hours of my arrival in the village Ganda Kheri. I had reached my village after 6.00 P.M. I stayed in my village on the night of 14.9.1999. I did not visit Ganda Kheri on the following day. I did not meet the police after 14.9.1999. It is incorrect to suggest that I have deposed falsely.”*

25. A reading of the above extracted portion of the cross-examination of the witness (supra), reveals that the speaking as occurs therein, that he had stated to the police that the money had been paid for the murder of Gurmail Singh, rather not occurring in his previously made statement to the police officer concerned. Resultantly, therebys the speakings (supra), as occur in the examination-in-chief of the witness (supra) do become infected with the vice of his making gross improvements or embellishments vis-a-vis his previously made statement in writing to the police officer concerned. Therefore, the result of the above gross



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improvement or rife embellishment being made by the witness (supra) over his previously made statement in writing to the police officer concerned, is that, therebys his deposition becomes unworthy of credence being assigned thereto.

26. Reiteratedly, the above made inference(s) become spurred from the factum, that when the witness(s) (supra), during the course of their respective cross-examination(s), became confronted with their previously made statements in writing, rather therein the speakings (supra) hence not occurring. In sequel, reiteratedly since the witnesses (supra) have made gross improvements or embellishments viz-a-vis their previously made statements in writing. Resultantly therebys their creditworthiness becomes belittled.

27. Conspicuously also, when the said witnesses have not deposed that they had last seen together the accused and the deceased, therebys too, the omission of speakings (supra), thus by the witnesses (supra) hence in their respective examination(s)-in-chief, but cannot lead to a conclusion, that the incriminatory link, as propagated by the prosecution, that the deceased and the accused were last seen together, either becoming spoken by the witnesses (supra) or the said link becoming cogently established. Consequently, the said incriminatory link in the chain of circumstances but cannot be concluded to be unerringly proven by the prosecution.

**Analysis of the submissions of PW-10 Gurcharan Singh and the reasons for assigning credence thereto**

28. Before proceeding to analyze the testimony of PW-10 Gurcharan Singh, it is deemed important to extract the relevant contents of his testification, as occur in his examination-in-chief, contents whereof



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become extracted hereinafter.

“x x x x

*On 13.9.1999 I had come to the house of Gurmail Singh with tractor trolley loaded with Turi in the evening at about 5/6.00 P.M. At about 11/11.30 P.M. I had severe pain in my stomach and went towards pond in torch light to ease myself. When I reached the turning of Kherpur Jattan after easing myself, I saw Manjit Singh Fauji, Daljinder Singh standing there. Two other persons having long height (the witness has correctly pointed out those two persons). All the four said persons had come from the side of village Gajipur. The said two persons were having white coloured scooter. Manjit Singh and Daljinder Singh were armed with Kahis. The said two persons were saying that they have removed the obstruction of Rorawala and they should destroy the kahis and both the said two persons went away on their scooter. After washing my hands in the pond I went to my house and slept there. In the morning at about 4.00 A.M. I took teak and wen to my village with tractor trolley. At about 9/10.00 A.M. I came to know about the murder of Gurmail Singh. Gurmit Singh asked me as to whether I knew about it or not and I told him that I had heard talking two persons with Manjit Singh and Daljinder Singh as stated above. Then at about 4.00 P.M. on 14.9.1999 we came for cremation. Then I along with my employer went to the police station and narrated the whole occurrence. My statement was recorded. Manjit Singh and Daljinder Singh accused are present in Court today.”*

29. Though, PW-10 in his examination-in-chief has not erected the relevant incriminatory link of his last seeing together the accused and the deceased, thus in proximity to the crime site, and/or in proximity to the timing of the crime event taking place there. However, he has candidly spoken therein, that on the night intervening the happening of the ill fated murder of the deceased, thus he had seen all the accused together. Furthermore, he has also testified in his examination-in-chief, that accused Manjit Singh and Daljinder Singh were armed with *kahis*, and, that he



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overheard the two persons stating, that they had removed the obstruction of *rorawala*, and, that they should destroy the *kahis*, whereafter the said persons went away on their scooter.

30. Obviously since the said facts (*supra*), as carried in the examination-in-chief of PW-10, do pointedly ascribe an incriminatory role to the accused. Therefore, irrespective of the said witness omitting to create an incriminatory link of the accused and the deceased being last seen together in proximity to the crime site, and/or in proximity to the timing of the crime event taking place there, yet when he has proven the incriminatory togetherness of the accused in proximity to the crime site, and/or in proximity to the timing of the crime event taking place there. Resultantly, the speakings (*supra*) do carry a heavy load of incriminatory overtones. Moreover, since the speakings (*supra*), as exist in the examination-in-chief of PW-10 remain uneroded of their efficacy, despite the said witness becoming subjected to the ordeal of a most grilling cross-examination. In sequel, credence is to be assigned to his testification, wherebys this Court assigns credit to the testification (*supra*), and, when the testification (*supra*) rendered by the witness (*supra*), thus becomes combined with the hereafter made reasons, thereupon this Court is led to conclude, that the prosecution has been able to invincibly prove the charges drawn against the accused.

***Analysis of the statement of PW-14 Ajaib Singh, before whom accused Narinder Singh and Jaspal Singh made an extra judicial confession, and, the reasons for dispelling the same***

31. The contents of the deposition, as occur in the examination-in-chief of PW-14 Ajaib Singh, before whom accused Narinder Singh and Jaspal Singh, thus made their respective extra judicial confessions, become



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extracted hereinafter.

*“On 26.9.1999 I had gone to village Kasbi where I am married. On 27.9.1999 villagers of village Kasbi introduced me to Narinder Singh and Jaspal Singh accused present in Court today. The said villagers told me that the said Narinder Singh and Jaspal Singh be saved from police and they be produced before the police and that the said accused will tell whole truth to me. Narinder Singh told me that Balwinder Singh Bhankar and Daljinder Singh Dali and Manjit Fauji had come to his village Behru. Balwinder Singh had told Narinder Singh that the other two namely Daljinder Singh and Fauji are his relatives and that they will give him Rs. 50,000/- and he should do their work and Narinder Singh also told that he replied in the affirmative that he will do their work and that Daljinder Singh Dali and Manjit Singh Fauji went to Narinder Singh and gave him Rs. 8,000/- and also told that in Gandakheri there is a man of quarrelsome nature and Narinder Singh told that the work will be done and that work was done after a month for which Rs. 8000/- again said, an amount of Rs. 8000/- was paid after a month. Again said that amount of Rs. 8000/- was paid after month. Narinder Singh also told me that Daljinder Singh Dali and Manjit Singh Fauji came to him (Narinder Singh) 5-6 times. Narinder Singh also told me that he was away with the combine and had come back in April. Narinder Singh further told me that Daljinder Singh Dali and Manjit Singh Fauji told him that either he should do their work or should return the amount. It was also told that Balwinder Singh Bhankar took Daljinder Singh Dali and Manjit Singh Fauji to Rajpura. It was also told that they showed Gurmail Singh Deed Writer to Narinder Singh and told that the said Gurmail Singh is of quarrelsome nature. It was also told that Narinder Singh made 2-3 rounds of the tubewell near which murder was committed. On the same day Daljinder Singh called Narinder Singh on telephone. Narinder Singh also told Jaspal Singh that he is to talk about combine. It was also told that Narinder Singh made Jaspal Singh sit on the scooter to go to Gandakheri as they were apprehending fight there. Then they reached Rajpura and Narinder Singh gave telephonic message to Daljinder Singh that they have*





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*reached Rajpura. Then Narinder Singh and Jaspal Singh came to the tubewell on scooter No. PB-11G-7800. At the tubewell Narinder Singh, Daljinder Singh, Jaspal Singh and Manjit Singh Fauji conspired together and went to the tubewell of Gurmail Singh and all the four caught hold of Gurmail Singh and murdered Gurmaili Singh with kahis and the kahis were entrusted to Daljinder Singh and Manjit Singh to dispose of the evidence. It was also told to me that thereafter Narinder Singh and Jaspal Singh came to village Behru on the scooter.*

*Jaspal Singh accused also told me that Narinder told him (Jaspal) that he is to talk about combine and made him sit on the scooter as they have to go to Gandakheri as they apprehended fight there and they reached Rajpura and that Narinder Singh gave telephonic message to Daljinder Singh that they have reached Rajpura and that Daljinder Singh told them to come to the tubewell and they went to the tubewell on scooter where Daljinder Singh was sitting and that they conspired there and thereafter went to the tubewell of Gurmail and that Gurmail Singh was asleep there and they quarreled with each other and that they all the four murdered Gurmaili Singh with kahis and that after entrusting kahis, Narinder Singh and Jaspal Singh came back to village Behru on scooter. It was also told to me that on the next day they came to know that police is searching for them and that out of fear they remained concealing themselves. It was also told to me that they have committed mistake and they will tell the truth and they be saved from police. On 27.9.1999 I told them in village Kasbi that they should go Rajpura Town and I will meet them there as he is to travel by bus. Then I produced Narinder Singh and Jaspal Singh before Manjit Singh. Again said Amarjit Singh SHO at about 6/6.30 P.M. Then Thanedar recorded the statement of Narinder Singh and Jaspal Singh while sitting in shop. Narinder Singh signed his statement again said memo whereas Jaspal Singh thumb marked his statement again said memo and on personal search of Narinder Singh sum of Rs. 25/- was recovered and sum of Rs. 20/- was recovered from the personal search of Jaspal Singh. The memos were prepared and signed. The personal search memo is Ex. PM and I identify my signatures on it.”*



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32. A reading of the hereinabove extracted contents of the deposition of PW-14 Ajaib Singh, as occur in his examination-in-chief, discloses that therein the said witness deposed, that on 26.9.1999, when he had gone to village Kasbi, where he is married, thereupon on 27.9.1999, the villagers of the said village introduced him with accused Narinder Singh and Jaspal Singh, and requested him to save them, and, further told him that the accused (supra) be produced before the police, and, they would narrate the whole truth to him. However, in his cross-examination, the said witness deposed, that both the accused (supra) had come to his in-laws house at about 1/10.00 A.M., and, remained there only for an hour. Furthermore, PW-14 Ajaib Singh, in his cross-examination, has also admitted that he had no intimacy or friendship with the *thanedar* concerned, and, he had never produced such like accused before the police prior to this. However, PW-16 Amarjit Singh, Sub Inspector admitted in his cross-examination that Ajaib Singh was known to him since the year 1991. Therefore, the learned trial Court has rightly discarded the incriminatory link qua making of an extra judicial confession purportedly by accused-appellant Narinder Singh and Jaspal Singh, before Ajaib Singh (PW-14), inasmuch as, the same being not made before the confidante of the accused-appellants, rather when the said witness was evidently friendly to the investigating officer concerned, therebys the purported extra judicial confession of participation in the crime event, as purportedly made to him by the accused (supra), rather is construable to be both doctored, and, tutored, and, thereto no credence is required to be assigned.



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**Analysis of the statement of PW-11 Amar Singh, who has proven the motive of the accused to commit the murder of the deceased**

33. The contents of the testification of PW-11 Amar Singh, as occur in the examination-in-chief, become extracted hereinafter.

*“On 22.10.1999 I had come to Court Complex Patiala at about 12.00 noon. Amarjit Singh Thanedar met me at the seat of Sh. K.S.Nagra, Advocate. Again said near the seat of Sh. K.S.Nagra. Amarjit Singh Thanedar asked me whether there is any person by the name of Balwinder Singh s/o Gurnam Singh in my village and I replied I affirmative. Balwinder Singh had met me in the village 5-6 months prior to the murder in the PCO as I had gone to give telephonic message. Balwinder Singh was already sitting in the PCO. Manjit Singh and Daljinder Singh came there thereafter. The said three Balwinder Singh, Manjit Singh and Daljinder Singh are present in Court as accused. I knew them. Manjit Singh and Daljinder Singh talked with Balwinder Singh that Chacha Gurmail Singh is troubling them and thorn is to be removed (liquidated). Balwinder Singh replied that he has persons in village Behru and they will do their work but they will have to spend money and that he will intervene for holding talks with them. After hearing this I came out of the PCO. The said Balwinder Singh, Manjit Singh and Daljinder Singh also came out and went on scooter to village towards Behru in my presence. Then I came to know in the village that murder has been committed in the village, Ganda Kheri. The police was searching for Balwinder Singh in village Bankhar. Then I remember the talk which has taken place at the PCO. My statement was recorded”*

34. From a reading of the above extracted examination-in-chief of PW-11, it can be invincibly concluded that thereby the prosecution has been able to prove the motive behind the occurrence. Fortification to the above is secured from the factum, that during the course of the said witness becoming subjected to cross-examination, therein neither any suggestion became meted to him nor any affirmative answer thereto became made by him, rather wherefroms thus may become decimated the motive ascribed by PW-11 in his examination-in-chief, inasmuch as his echoing therein, that he had overheard Balwinder Singh confabulating with the other co-accused, with whom he stated to be acquainted with, thus with expressions in the said inter se confabulations that given the deceased troubling them, whereupon it is further echoed by the witness (supra), that accused Balwinder Singh



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voiced qua he has certain persons in village Behru, and, that they will do their work but they will have to spend money, and, that he will arrange for the accused holding talks with them.

35. Since co-accused Narinder Singh evidently belongs to village Behru, and, in pursuance to his signed disclosure statement, as embodied in Ex. PBB, recovery of photocopy of registration certificate of scooter No. PB-11G-7800, one pant, a torn bushirt of light pink colour and one pant of brown colour, became effected by him, to the investigating officer concerned. Resultantly therebys the testification (supra) made by PW-11 that he overheard co-accused Balwinder Singh, thus confabulating with the other co-accused hence with expression therein qua given the trouble being created by the deceased, he has certain persons in village Behru to commit the murder of the deceased, does but obviously acquire immense creditworthiness. Resultantly therebys the motive for the crime event taking place becomes invincibly established by the prosecution. Since in a prosecution case erected upon circumstantial evidence, thus proof of motive is required to be cogently established. Resultantly, when in the instant case the motive for the taking place of crime event has been cogently established. Therefore, the following inferences arise therefrom:-

- (a) The conclusion (supra) made by this Court that the testifications, rendered by PW-8 and PW-9 being bereft of evidentiary vigour, thus becoming rendered inconsequential.
- (b) The lack of proof by the prosecution of the extra judicial confession as purportedly made by accused Narinder Singh and Jaspal Singh before PW-14 Ajaib Singh, also becoming rendered completely inconsequential.



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(c) Moreover, therebys the infirmity (supra) as ingraining the testifications of PW-8 and PW-9, does also become rendered inconsequential.

(d) Contrarily, since for the further reasons to be assigned hereafter, this Court has assigned creditworthiness to the respectively drawn signed disclosure statements of the convicts-appellants concerned, to which Ex. PP and PQ, become assigned, besides has assigned creditworthiness to the consequent thereto effected recoveries, thus through recovery memos, to which respectively Ex. PS and PU become assigned. Moreover, when this Court has assigned credit to the report of the FSL, therebys too, the supra infirm testifications rendered by the prosecution witnesses (supra) do become completely eclipsed, whereas, preponderance is to be assigned to the deposition of PW-11 and to the memos (supra), besides to the report of the FSL concerned, which for the reasons assigned hereinafter, is the best forensic evidence for bringing home the guilt of the accused.

36. Moreover, PW-5 Prabhjit Singh has deposed in his examination-in-chief, that a civil suit was pending in the Court at Rajpura between his father and his elder brother accused Santokh Singh. However, the said dispute was got compromised between his father and Santokh Singh by one Amarjit Singh Lambardar and other relatives about 4-5 prior months to the occurrence. Thereafter, the said civil suit was withdrawn by his father. The said witness further deposed that the compromise (supra) was not honoured by accused Santokh Singh, Daljinder Singh, Manjit Singh Fauji



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and Ranjit Singh. He further deposed that in the year 1998, a dispute had arisen between them and the accused party and proceedings under Section 107/151 were initiated. He further deposed that there was a dispute between the complainant party and accused Harjinder Singh regarding path leading to their house. Though, a compromise was effected between them, yet accused Harjinder Singh continuing to raise a dispute with regard to the path. The deposition of the said witness is supported by the testimony of PW-6 Gurtej Singh. Therefore, since the accused were nursing a grudge thus against deceased Gurmail Singh, as such, the motive to commit murder of deceased Gurmail Singh stands further convincingly proven by the prosecution.

**Signatures disclosure statements of convicts-appellants Manjit Singh Fauji and Daljinder Singh respectively Ex. PP and Ex. PQ**

37. During the course of investigations, being made into the appeal FIR, convicts-appellants Manjit Singh Fauji, and, Daljinder Singh thus made their respective signed disclosure statements, to which respectively Ex. PP and Ex. PQ become assigned. The signed disclosure statements, as made by both the accused are ad verbatim extracted hereinafter.

**Disclosure Statement of convict-appellant Manjit Singh Fauji**

“x x x x

*I had thrown a spade in the pond of my village in which water is present, regarding which I have the exclusive knowledge and I can get the same recovered after pointing out.*

x x x x”

**Disclosure Statement of convict-appellant Daljinder Singh**

“x x x x

*I had thrown a spade in the pond of my village in which water is present, regarding which I have the exclusive knowledge and I can get the same recovered after pointing out.*

x x x x”



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38. Pursuant to the above made signed disclosure statements, convicts Daljinder Singh and Manjit Singh Fauji rather ensured the effectuation of recovery(ies) of spades, which were taken into police possession, through recovery memos, to which respectively Ex. PS and Ex. PU become assigned.

39. The disclosure statements (supra), carrying the signatures, in Punjabi, of both the convicts-appellants. In their signed disclosure statements (supra), both the convicts-appellants (supra), confessed their guilt in committing the crime event, by inflicting injuries on the deceased concerned, hence with the incriminatory weapons of offence. The further speaking therein is qua their keeping, and, concealing the incriminatory weapons of offence, at the place concerned, and, qua their alone being aware about the location of their hiding and keeping the same, and, also revealed their willingness to cause the recovery of the incriminatory weapons of offence to the investigating officer concerned, thus from the place of their hiding, and, keeping the same.

40. The above disclosure statements, do acquire, the utmost evidentiary solemnity, as thereons exist the signatures, in Punjabi, of the convicts-appellants, which, however, they have neither ably denied nor proven the said denial. Moreover, the above confession of guilt is neither a bald nor a simpliciter confession, nor is hit by the bar, encapsulated in Section 25 of the Indian Evidence Act. The reason for drawing the above inference, ensues from the factum, that in pursuance thereof, through proven recovery memo(s), the convicts-appellants, thus caused the recovery(ies) of the incriminatory weapons of offence, to the investigating officer concerned.



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41. Since the recovery(ies) of the incriminatory weapons of offence, as made through recovery memos Ex. PS and Ex. PU, has/have not been proven to be false or a contrived recovery(ies), inasmuch as, it has not been cogently established, that prior to the making of the above recovery, rather the investigating officer concerned, had taken to plant the same at the apposite site of its recovery, nor when any cogent evidence becomes adduced rather vividly exemplifying, that the place of the apposite recovery(ies) rather was/were open place(s), hence leaving scope for any person, other than the convicts to place it there. Thus, the above recovery(ies) is/are not only to be concluded to be a validly made recovery(ies), but is/are also to be concluded to be of the very same incriminatory weapons, which did become used by convicts-appellants, in causing the relevant fatal assault.

42. The inference, to be drawn from the above validly drawn memos is that, therebys fortification becoming acquired vis-a-vis the deposition enclosed in the examination-in-chief of PW-11, wherein he deposed that he had seen accused Manjit Singh and Daljinder Singh being armed with kahis, and, with further echoing therein, that he had overheard the other two accused stating, that they had removed obstruction of *rorawala*, and, that they should destroy the kahis i.e. the ones recovered, whereafter both of them went away on their scooter.

**Recovery of piece of cloth Ex. PI**

43. During the course of investigations being made into the appeal FIR, the investigating officer concerned, collected thus from the crime site, a blood smeared piece of cloth of shirt of light pink colour having white colour lining on it, which was torn from the arm. The said piece of cloth was





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wrapped in a polythene paper and a parcel was prepared which became sealed with seal bearing impression 'AS'. The said parcel was taken into police possession vide seizure memo Ex. PI.

**Signatures disclosure statement of convict-appellant Narinder Singh**

**Ex. PBB**

44. During the course of investigations, being made into the appeal FIR, convict-appellant Narinder Singh, thus made his signed disclosure statement, to which Ex. PBB becomes assigned. The signed disclosure statement, as made by the accused (supra) is ad verbatim extracted hereinafter.

“x            x            x            x  
At the time of occurrence of night, I while riding on scooter bearing No. PB11-G7800 of white colour, reached my village Ganda Kheri. I had parked that scooter outside Malwa Transport after stating to the owner Nachhattar Singh that we will take back the said scooter after some time. I have kept my bu-shirt and pant and also bu-shirt and pant of Jaspal Singh @ Kala, which are smeared with blood in the diggy of the scooter, and the same were washed with water. The photostat RC of the scooter is also kept in the diggy of the scooter, regarding which I and Jaspal Singh have the knowledge. I can get recovered the same after pointing out.

x            x            x            x”

45. Pursuant to the above made signed disclosure statement, convict Narinder Singh ensured the recovery(ies) of photocopy of registration certificate, one pant, and, a torn bushirt of light pink colour having white stripes and one pant of brown colour from the diggy of scooter bearing No. PB-11G-7800. Separate parcel Ex. MO29 appertaining to the clothes of Jaspal Singh and parcel Ex. MO30 appertaining to the clothes of Narinder Singh were prepared which were sealed with seal bearing



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impression 'AS' and were taken into police possession vide recovery memo Ex. PCC.

**Report of the FSL concerned, to which Ex. PJJ becomes assigned**

46. Through Reference No. 30271/C dated 24.9.1999, the sealed cloth parcels (supra) as became taken into possession respectively through seizure memo Ex. PI and through seizure memo Ex. PCC became sent, through Constable Satwinder Singh No. 1273 to the FSL concerned. The FSL concerned, thus upon making examinations of all the incriminatory items, as became sent to it in sealed cloth parcels, hence made thereons an opinion, opinion whereof, becomes *ad verbatim* extracted hereinafter.

**“Description of articles/exhibits received/contained in parcels**

*Parcel-C It contained a striped torn sleeve stated to have been recovered from the scene of crime. It has been marked as C-1 by this laboratory.*

*Parcel-T It contained a striped full sleeve shirt with a part of its right sleeve missing and a pant stated to have been recovered from the suspect Narinder Singh. These have been marked as T-1 and T-2 respectively by this laboratory.*

**Note:-** *The markings on the parcels as above has also been done by this laboratory.*

**Result of Examination**

*The torn sleeve C-1 contained in parcel 'C' and stated to have been lifted from the scene of crime and the full sleeve shirt T-1 contained in parcel T and stated to have been recovered from suspect Narinder Singh are part and parcel of one another.*

47. The report of the FSL as enclosed in Ex. PJJ, wherein, the above extracted speakings occur, became tendered into evidence by the Public Prosecutor concerned. Sine the learned defence counsel did not adduce evidence, suggestive that the seizure memos (supra) became inefficaciously drawn nor when the learned defence counsel adduced any



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evidence, suggestive that the recoveries, as made from accused Narinder Singh, in pursuance to his making a signed disclosure statement Ex. PBB, thus also were respectively vitiated disclosure statement(s), and, recovery memo(s). Resultantly, when for the reasons (supra), the said respectively made signed disclosure statement Ex. PBB, and, the consequent thereto recovery Ex. PCC, rather have been assigned the fullest credence by this Court. In consequence, since the expert at the FSL concerned, but after comparing the recovered items, as became effected to the investigating officer concerned, by co-accused Narinder Singh, with the incriminatory items in respect whereof seizure memo Ex. PI became drawn, made the hereinabove incriminatory conclusion. Furthermore, when the above extracted incriminatory conclusion personifies, that the recovery, as made through Ex. PI, and, the recovery as became effected by co-accused Narinder Singh, through seizure memo Ex. PCC, rather is/or a part of the very same garment or clothing. Moreover, especially when no cogent rebuttal thereto evidence has been adduced by the defence. Consequently, therebys this Court is coaxed to make a conclusion, that the incriminatory echoings (supra), as occur in the result of the apposite examination, as made at the FSL concerned, do have immense evidentiary worth. Resultantly, therebys the prosecution has been able to lend fortification to the testification of PW-11, who unrebuttedly deposed about accused Daljinder Singh and Manjit Singh being sighted in proximity to the crime site, and/or in proximity to the timing of the crime event taking place there, besides also stated that he had sighted them to be carrying the incriminatory weapons of offence. Since the said stated incriminatory weapons of offence are in alignment with the apposite recoveries, as made, at the respective instance(s)



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of the accused-appellants concerned, from the respective place(s) of their hiding and keeping by the accused-appellants concerned, thus to the investigating officer concerned. Therefore, when there is evident inter se corroboration inter se the incriminatory report of the FSL concerned, vis-a-vis the memos (supra), memos whereof are respectively the signed disclosure statements of the accused-appellants concerned, and, the consequent thereto recoveries, as became made at their respective instance(s) to the investigating officer concerned. Resultantly therebys, this Court is firmly led to conclude that the prosecution has convincingly proven the charge drawn against the accused.

**Post-mortem report**

48. The post-mortem report, to which Ex. PA is assigned, became proven by PW-1. PW-1 in his examination-in-chief, has deposed that on his making an autopsy on the body of deceased Gurmail Singh, thus his noticing thereons the hereinafter extracted ante mortem injuries-

*“1. An incised wound 2 cm x 0,5 cm x 6 cm deep on left occipital area 4 cm behind left ear. Underlying bone fractured.*

*2. An horizontally placed incised wound 8 cm and 6 cm deep left to midline in occipital area. Underlying bone fractured.*

*3. An horizontally placed incised wound 10 cm and 6 cm deep 2.5 cm above injury No. 2 left to midline in occipital area. Occipital bone fractured.*

*4. Two incised wounds 5 cm/4cm perpendicularly placed gaping 3 cm deep and 2 cm above injury No. 3. Underlying bone fractured.*

*5. A vertical incised wound 4 cm x 0.75 cm x 3 cm deep, 3 cm medial to injury No. 1. Underlying left parietal bone*



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*fractured.*

6. *A horizontal incised wound 7 cm x 0.5 cm gaping and 3 cm deep left to midline parietal area.*

7. *An oblique incised wound 10 cm x 0.75 cm gaping x 1.5 cm bone deep on right frontal area. Underlying bone fractured.*

8. *An abrasion 2 x 2 cm on left forehead just above left eye brow on its lateral margin.*

9. *Bleeding from nose, mouth and ears.*

*On dissection of skull, right frontal, left parietal and occipital bones fractured. Underlying brain tissue lacerated and Hemorrhagic. Base of skull fractured.*

10. *An incised wound 4 cm x 2 cm dorsum of right hand in middle of medial side. On dissection underlying tissue lacerated and hemorrhagic.*

11. *Fracture of middle metacarpophalangeal joint.”*

49. Furthermore, PW-1 also made a speaking in his examination-in-chief, that the cause of demise of the deceased was owing to shock and haemorrhage, as a result of injuries (supra), which were stated to be ante mortem in nature, and, also sufficient to cause death in the ordinary course of nature. The said witness was also shown two spades (Ex P-1 and Ex. P-2), whereupon he deposed that injuries No. 1 to 7, as observed to be occurring on the person of the deceased, could be caused with the sharp side of the said spades, and, the other injuries on the person of the deceased could be caused from the blunt side of the said spades.

50. The above made echoings by PW-1, in his examination-in-chief, became never challenged through any efficacious cross-examination, being made upon him, by the learned defence counsel. Therefore, the



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opinion, as made by PW-1 qua the demise of the deceased, thus acquires formidable force. Consequently, the above echoings, as made by PW-1, in his examination-in-chief, do relate, the fatal ante-mortem injuries to the time of the crime event hence taking place at the crime site.

51. Therefore, with the afore observations, both the criminal appeals (supra) filed by the appellants are dismissed.

52. Insofar as **CRR-1692-2003**, filed by the complainant is concerned, since the instant case is not a rarest of the rare case, thus therebys this Court is constrained to not impose capital punishment, upon the convicts. However, the imposition of the fine amount of Rs. 1000/- upon each of the accused is extremely minimal, and, is required to be enhanced, as the fine amount is required to be on its realization disbursed to the family members of the deceased. Therefore, CRR-1692-2003 is allowed only to the extent, that the above sentence of fine comprised in the sum of Rs. 1000/- each, as imposed upon each of the convicts being ordered to be enhanced to Rs. 50,000/- each. Further on realization of the said fine amount, the same shall be disbursed as victim compensation to the family members of the deceased. However, in default of payment of fine amount (supra), the convicts-appellants shall undergo further rigorous imprisonment for one year.

### **Final Order**

53. The result of the above discussion, is that, this Court does not find any merit in the appeals preferred by the appellants, and, is constrained to dismiss them. Consequently, **CRA-549-DB-2003** and **CRA-D-556-DB-2003** are dismissed. The impugned verdict of conviction, as becomes recorded upon the convict-appellant, by the learned convicting Court, is



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maintained, and, affirmed. Moreover, the consequent thereto order of sentence is also affirmed. However, the order of sentence of fine is modified to the extent (supra). If the convicts-appellants are on bail, thereupon, the sentence as imposed upon them, be ensured to be forthwith executed by the learned trial Judge concerned, through his drawing committal warrants. The case property be dealt with, in accordance with law, but after the expiry of the period of limitation for the filing of an appeal.

54. **CRR-1692-2003** preferred by the complainant is partly allowed to the extent (supra).

55. Records be sent down forthwith.

56. The miscellaneous application(s), if any, is/are also disposed of.

**(SURESHWAR THAKUR)**  
**JUDGE**

**(SUDEEPTI SHARMA)**  
**JUDGE**

**August 23<sup>rd</sup>, 2024**  
**Gurpreet**

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