
(2006) 04 P&H CK 0139

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Appeal No. 464 DB 1997 Criminal Revision No. 925 of 1997

Mohinder Singh Khalsa
and others

APPELLANT

Vs

State of Punjab

Mohinder Pal Singh
and others Vs Mohinder
Pal Singh and others

RESPONDENT

Date of Decision: April 28, 2006

Acts Referred:

Penal Code, 1860 (IPC) â€” Section 148, 149

Citation: (2006) 04 P&H CK 0139

Hon'ble Judges: R.S. Madan, J; K.S. Garewal, J

Bench: Division Bench

Advocate: T.S. Sangha with Ms. G.K. Mann, for the Appellant; A.S. Virk, Additional Advocate General, Punjab Mr. Baljit Kaur Mann, Advocate in CrI. Revision No. 925 of 1997, for the Respondent

Judgement

K.S. Garewal, J.

On the morning of March 26, 1992 at 9.30 AM Balwinder Singh (32) was stabbed to death in the premises of Escorts

Goetze (India) Limited in Bahadurgarh, District Patiala. Balwinder Singh was an employee of Escorts Goetze (India) Limited. Makhan Singh (PW-

6), another regular employee of the said Company, was also stabbed but he survived. After investigation, nine employees were sent up for trial,

four were acquitted and the five appellants were convicted on June 4, 1997 by the learned Additional Sessions Judge, Patiala. Mohinder Singh

Khalsa, Gurpal Singh, Kulwant Singh and Nirmal Singh were convicted for the murder and sentenced to rigorous imprisonment for life and to pay

fine, while Didar Singh was convicted for causing simple injury to Makhan Singh and sentenced to rigorous imprisonment for two years. All the five

convicts have come up in appeal. Mohinder Pal Singh Hundal (PW-4) and Harpinder Singh have filed Crl. Revision No..925 of 1997 for the

conviction of the acquitted-respondents and the enhancement of the sentences awarded to the appellants and also for enhancement of amount of

fine. Both the appeal as well as the revision shall be disposed of together.

2. According to the prosecution, the murder was a result of rivalry between two groups of employees of the above mentioned concern. The

occurrence took place at 9.30 AM when Mohinder Pal Singh Hundal (PW-4), Balwinder Singh deceased, Makhan Singh (PW-6) and Harpinder

Singh were present near the factory canteen and taking tea. Mohinder Pal Singh Hundal (PW-4) was the President of Escorts Goetze Employees

Trade Union. The two companies were sister concerns and had common management, security staff, time office, gate and Trade Union, although

the two concerns manufactured different goods.

3. Mohinder Singh Khalsa-appellant No. 1 was the immediate past President of the Union. The other accused were also employees of the factory

and members of the Union. They were supporters of Mohinder Singh Khalsa.

4. While Mohinder Pal Singh Hundal (PW-4) and others were enjoying tea, Mohinder Singh Khalsa, Gurpal Singh, Kulwant Singh, Didar Singh

(all wearing kirpans with gattras), Harpreet Singh Bhao, Bahadur Singh, Harpinder Singh, Lakhbir Singh and Nirmal Singh reached there.

Mohinder Pal Singh Hundal (PW-4) asked Mohinder Singh Khalsa, who had recently been defeated by him to hand over the charge of the Union.

Instead of talking about the handing over charge, all the accused attacked Mohinder Pal Singh Hundal and others. Nirmal Singh slapped Balwinder

Singh, knocked down his turban and caught hold of him from his long hair. Mohinder Singh, Gurpal Singh and Kulwant Singh whipped out their

kirpans from the gattras and attacked Balwinder Singh. Balwinder Singh deceased sustained kirpan stabs on his chest, left flank and abdomen and

died at the spot. Bahadur Singh caught hold of Makhan Singh (PW-6), Lakhvir Singh and Harpreet Singh punched Makhan Singh, while Didar

Singh whipped out a kirpan from his gatra and stabbed Makhan Singh on his waist. When alarm was raised all the nine accused disappeared

through the main gate carrying their respective weapons.

5. Mohinder Pal Singh Hundal (PW-4) left Harpinder Singh to guard the dead body and set out to report the matter to the police. When he was

waiting for a bus outside the factory gate the police reached there and Mohinder Pal Singh's statement was recorded by ASI Arshdeep Singh

(PW-12) of Police Station Sadar, Patiala. Recording of the statement was concluded at 11.20 AM and on that basis FIR No. 87 dated March

26, 1992 was registered at Police Station Sadar, Patiala at 11.50 AM u/s 302, 148, 149 IPC. A special report of the case was delivered to the

Chief Judicial Magistrate, Patiala at 3.50 PM.

6. ASI Arshdeep Singh (PW-12) commenced the investigation and soon reached the spot where Balwinder Singh's dead body lay. The inquest

report was prepared wherein the Investigating Officer noted that the deceased was wearing a white shirt of half sleeves, white vest, grey checked

pants and white underwear. Eyes were slightly open. Mouth was half open. Death pallor was present. There were three injuries on the body, on

the left side of the lungs, middle of the chest and on the abdomen above the naval. Blood had oozed from the injuries. The injuries had been caused

with a gatra kirpan.

7. The post-mortem of the body was conducted by Dr. Deepak Walia (PW-5) at 2.10 PM on March 26, 1992. The Medical Officer noted in the

report that the body was well built, well nourished, wearing light cream coloured shirt, white vest, green pants, brown underwear, handkerchief and

a white metallic karra. Rigor mortis was present on the upper part of the body and the post-mortem staining on the posterior surface of the trunk

and sparing the pressure points. Seminal discharge was noticed on the tip of the penis. Eyes and mouth were semi-open. Shirt and vest were blood

stained. One cut was present in the shirt and one in the vest. The Medical Officer found the following injuries on the person of the deceased :

1. A wound with sharp clean cut margins 2 cm x 0.75 cm muscle deep present on front of chest in sternal area between two nipples. It was placed

obliquely lower and going towards right side. Clotted blood was present. On dissection underlying muscle was cut and no cut was present in the

bone. Injury was not deep.

2. A stab wound with clean cut sharp margins 2 cm x 0.75 cm present in epigastric area 5 cm left of mid line 10 cm below and medial to left nipple

at 7 O'clock position from left nipple. It was placed obliquely. On dissection left lobe of liver was cut. A cut was present on the heart antero-

posteriorly on the anterior surface, 6 cm a round going to posterior. Surface 3 cm circumference. Left lung was collapsed. Left pleural cavity was

filled with about 800 cm of fluid blood. About 600 cm of fluid was present in peritoneal cavity, cut was present in diaphragm.

3. A wound 1.5 cm x 1.2 cm with sharp clean cut margins present on right side of abdomen 3 cm above and right of umbilicus at 11 O'clock

position from umbilicus. It was present 10 cm below lower end of injury No. 2 dissection rectus muscle of right side was cut. A cut was present in

omentum but no deeper tissue was injured.

8. The cause of death was injury to the vital organ like heart as a result of injury No. 2. All the injuries were ante-mortem in nature and injury No.

2 was sufficient to cause death in the ordinary course of nature. The probable time between the injury and death was immediate and the post

mortem had been conducted within 12 hours of the death.

9. Makhan Singh (PW-6) had been evacuated to Rajindera Hospital, Patiala by Harbans Singh, Factory Dispenser and SPO Lajinder Singh. He

was medico- legally examined by Dr. Jatinder Pal Singh (PW-7) at 9.45 AM on March 26, 1992. Pulse rate of Makhan Singh was 110 per

minute regular, good volume and equal on both sides with no special character, B.P. was 100/70 mm/Hg. Pupils were normal in size and reacting

normally. Respiratory rate was 18 per minute. The following injury was found on the person of Makhan Singh.

1. An incised wound of 3 cm x 1 curs size, elliptical in shape with clear and clean cut margins on the back of the body in the lumbo sacral region.

Fresh free flow of bleeding from the wound. Tenderness in the area was present and patient was admitted in Surgery Ward No. 2.

10. The Medical Officer kept the injury under observations and declared that the injury was fresh in nature which had been inflicted within six

hours with a sharp edged weapon. Later the injury was declared to be simple.

11. The Investigating Officer inspected the place of occurrence, prepared the site plan and picked up blood stained earth. In the meantime, C.

Babu Singh reached the spot and produced the copy of FIR, which had been earlier recorded at the Police Station. ASI Arshdeep Singh recorded

supplementary statement of Mohinder Pal Singh and the statement of Harpinder Singh and then proceeded to Rajindera Hospital, Patiala to record

the statement of the injured Makhan Singh. However, the Medical Officer declared that Makhan Singh was unfit to make a statement. Makhan

Singh"s statement was finally recorded on March 31, 1992 after his discharge from hospital when he voluntarily approached the police to give his

statement.

12. Mohinder Singh Khalsa and Didar Singh surrendered before the Area Magistrate on March 27, 1992 and were taken into custody.

13. The investigation was taken over by Inspector Sant Kumar (PW- 11) SHO, Police Station Sadar on March 29, 1992. Inspector Sant Kumar

interrogated Mohinder Singh Khalsa and Didar Singh who made their respective statements and got their respective kirpans recovered.

14. Gurpal Singh, Kulwant Singh, Nirmal Singh, Harpreet Singh, Bahadur Singh and Harvinder Singh were arrested on April 2, 1992 from the

house of Mohinder Singh Khalsa. At the time of arrest Gural Singh and Kulwant Singh were wearing kirpans, which were taken into possession.

Lakhbir Singh was arrested on April 11, 1992.

15. After conclusion of the investigation, accused were sent up for trial on April 28, 1992. At the trial, charge was framed against all the nine

accused under Sections 302, 149 and 324 etc. IPC, on September 8, 1992 by the learned Additional Sessions Judge, Patiala.

16. The accused pleaded not guilty and claimed trial.

17. November 30, 1992 was the first date for recording the prosecution evidence. Thereafter 35 opportunities were availed by the prosecution to

record the statements of 13 prosecution witnesses, which was finally concluded on February 19, 1996. The prosecution evidence consisted of 5

statements on affidavit and about 78 pages of testimonies.

18. The above statistics demonstrate the extreme slow progress before the trial Court. 78 pages, which would normally have required two days at

best, took nearly three years and three months to be recorded. During this period, the Presiding Trial Judges also kept changing due to transfer.

The learned Additional Judge who finally pronounced the judgment was posted at Patiala some time in June, 1995 and took over the trial of the

case long after the eye witnesses had testified.

19. The prosecution examined Draftsman Indresh Khanna (PW-1), C. Narang Singh (PW-2), C. Babu Singh (PW-3), Mohinder Singh (PW-4),

Dr. Deepak Walia, (PW-5), Makhan Singh (PW-6), Dr. Jatinder Pal (PW-7), Dr. Yashpal Mitra (PW- 8), C. Chet Ram (PW-9), HC Kuldip

Singh (PW-10), DSP Sant Kumar (PW-11), Inspector Arshdeep Singh (PW-12) and HC Shamsher Singh (PW-13).

20. After the conclusion of the prosecution evidence, the accused were examined without oath u/s 313 Cr.P.C. Mohinder Singh Khalsa admitted

that elections of the office-bearers of the Trade Union of the Escorts Goetze Limited were held on February 1, 1992 in which he was defeated and

Mohinder Pal Singh Hundal (PW-4) was elected as President. He also admitted that Escorts and Goetze are sister concerns, which have common

management, common security staff, common time office, common gate with only one Trade Union. However, he denied that Makhan Singh,

Harpinder Singh and Balwinder Singh were the members of the Union. He admitted that he was a former President of the Union and his co-

accused were also employed in the factory but they were not his supporters, though they were members of the Union. Rest of the circumstances

put to him were denied by him. In his counter version Mohinder Singh Khalsa stated as under :

I was elected President of Escort Goetze Employees Union from 1989 to 1992. During my tenure as President I pressurized the management to

enter into some agreement with the employees for which the management was compelled to depart (sic) handsome amount to the employees and

therefore myself and my colleague were an eye sore to the Management. In the year 1939 an unfortunate incident took place in the factory in

which two officers were murdered and one was injured. Since that ugly incident the security in the premises of factory was tightened and nobody

was allowed to enter or leave the Factory without a thorough search by the security guards which were about 70 in number and we were headed

by an Ex- army personnel at the main gate. According to the rules of the Management tea used to be served to the employees in their respective

workshop and during the working hours no employee was allowed to take tea or to entertain guests in the Canteen. On 26.3.1992 my duty hours

were from 2.30 P.M. to 10.30 p.m. But due to the unfortunate incident there was a lock out in the factory at 12.00 noon and therefore I did not

enter the factory premises on 26.3.92 at any point of time. I was involved in the present case at the instance of Management and my professional

and political opponents. I myself surrendered in the Court coming to know that false case has been registered against me.

21. The remaining accused also adopted the same defence plea.

22. Accused were called upon to enter defence. They examined Raghvinder Pal Singh, Clerk of S.S.P. Patiala office (DW-1) who stated that

there were no applications regarding the opening and closing of Police Post in the Escorts factory. C. Babu Singh (DW- 2) testified that the

statement of Mohinder Pal Singh (exhibit PB), which formed the basis of FIR, was not in his handwriting. Ravinder Singh Sharma, D.T.O.

Fatehgarh Sahib appeared as DW-3 and testified that on February 14, 1991 an agreement had reached between the Management and the Union

in his presence. C. Gurmel Singh (DW-4) testified that statement exhibit PB was not his handwriting. Similarly C. Gurmit Singh, who appeared as

DW-5, also testified that exhibit PB was not in his writing.

23. SI Harbhajan Singh (DW-6) however stated that exhibit PB, the inquest report and the summary of the inquest, had been written by him. At

the relevant time he was Incharge D.C.W. Police Post which was part of Police Station Sadar, Patiala. Bachana Ram (DW-7) testified that

according to Daily Diary Report No. 10 dated March 26, 1992, information was received through QST from SHO, Police Station Sadar

regarding the murder at the Bahadurgarh factory and for necessary action to be taken. On receipt of this report, SI Harbhajan Singh, In-charge

D.C.W. Police Post, left the Police Post for the place of occurrence in a government vehicle alongwith other police officials. They returned to the

Police Post at 10.30 PM after conducting the investigation of the case.

24. Avtar Singh, Assistant Dealing Clerk of SSP Office Patiala was examined as DW-8 to prove the demand of Rs. 1.98 lac for the period April

1, 1991 to March 31, 1992 by S.S.P, Patiala from the Chief Manager, Escorts in respect of the expenses of the guards posted at the factory

consisting of one Head Constable and four constables.

25. Learned Trial Judge formulated nine points for determination of the case; whether there was unexplained delay in lodging the FIR; whether

medical evidence was inconsistent with the ocular testimonies; whether accused had no motive to commit the offence; whether material witnesses

had been withheld and PWs have made material improvements in their statements; whether the case was false; whether an unlawful assembly had

formed with common object to commit the crime; whether there was evidentiary value of the recoveries of the weapons; whether defence version

was probable and what offence the accused have committed. The learned Trial Judge carefully prepared a chronology of events and accepted the

prosecution version that SI Harbhajan Singh was already on patrol since 6.15 AM on March 26, 1992 in a police vehicle and when he received

the wireless message, he went to the spot where he met ASI Arshdeep Singh. Therefore, ruqa Ex. PB was scribed by him on the dictation of

Arshdeep Singh. The learned Trial Judge discarded the defence argument that there was delay in making the report to the police and this delay was

used to put forth a concocted version implicating a large number of accused.

26. The learned Trial Judge also found that there was only a single cut on the shirt and vest of the deceased and but this did not conflict with the

three injuries on his person, as the shirt and vest might have got pulled up when the other two injuries were inflicted.

27. The learned Trial Judge found that Mohinder Pal Singh Hundal (PW-4) had demanded from Mohinder Singh Khalsa that charge of the Union

be handed over and it was on this account that the accused had carried out the attack. The learned Judge found that although the bank account

had been handed over, the charge of the welfare fund had not been given and the demand for this was sufficient motive for the appellants to murder

Balwinder Singh.

28. As regards the withholding of Harpinder Singh and Devinder Singh Sodhi as witnesses, the learned Judge felt that there was no need to draw

an adverse inference against the prosecution. The learned Judge found that presence of the accused at the factory premises at the time of

occurrence was proved. The case was a result of rivalry between two groups of the Union. Therefore, there may have been a tendency on the part

of one group to rope in as many members of the rival group as possible and for this reason the parts played by the individual accused should be

carefully examined and scrutinized. Thus, the learned Judge came to the conclusion that participation of Bahadur Singh, Lakhbir Singh, Harpreet

Singh and Harvinder Singh was doubtful and they were given the benefit of acquittal. However, the four accused carrying kirpans and the fifth

accused who had caught the deceased from his hair were found guilty and convicted.

29. The learned counsel for the appellants main arguments are based on his principal submission that the delay in reporting the matter to the police

had given an opportunity to the members of the one group to introduce 9 members of the other group as accused for the murder of Balwinder

Singh and assault upon Makhan Singh. Since time was available, place of occurrence was also shifted and the original place where the occurrence

had taken place, as suggested by the defence to the eye witnesses, was altered. Based upon above premises, the learned counsel built up the entire

edifice of the appeal filed by the appellants against their conviction.

30. March 26, 1992 was a working day in the Escorts Goetze (India) Limited factory in Bahadurgarh, District Patiala. If a factory worker was

stabbed to death and another was injured, it was naturally a matter of great concern to the co-workers and the management that such a blatant

attack on two workers had taken place within the factory compound in a broad daylight. Therefore, everyone concerned would like to ensure that

the culprits are arrested, tried and suitably punished after trial. The best way of ensuring this would have been to put forward a truthful version

containing as few embellishments as possible.

31. The above objective can never be served if at the very commencement of the investigation a coloured version is presented. The first informant

and the Investigating Officer can never visualize at the initial stage of the investigations that they had introduced such gaps in the investigation that

could get exposed through cross-examination by astute defence counsel and may eventually scuttle the entire prosecution case. It is unfortunate

that in the present case, there are many small and insignificant fissures which taken individually may not be important but when taken collectively

may compel Judges sitting in appeal to think that some of the accused were wrongly convicted.

32. The stated time of the occurrence was 9.30 AM but this could have been even earlier. The President of the Union of the employees was

enjoying a cup of tea at the said factory canteen with three men but the Investigating Officer found no evidence of tea cups or utensils at the site.

The President of the Union was confronted by the past President and there was exchange of hot words between them over handing over of the

welfare funds. The past President did not even attempt to inflict an injury on the present President but whipped out his kirpan and stabbed

Balwinder Singh deceased in the chest. The kirpan cut the heart and Balwinder Singh died at the spot. Balwinder Singh had two other injuries as

well. These may have been repeated by the same assailant. It is highly unlikely that these were separate blows given one after the other by three

individuals; assailant inflicting the first blow steps back, the second man inflicts the second blow and steps back and then the third man gives the

third blow. This could hardly be the sequence of events. The turban and the shoes of the deceased must have come off but were not recovered

from the spot by the Investigating Officer. During postmortem seminal discharge on the tip of the penis was noticed. There was no explanation on

this aspect of the case. Suggestions put to the witnesses were that the deceased had made homosexual advances towards a Factory worker at a

nearby plot and was stabbed by that person. The deceased had stumbled and walked to the spot where he fell dead. In our opinion, this may be a

somewhat far fetched argument because the deceased would not have been able to walk even a step though learned counsel was at pains to argue

that this could be possible. Deceased died almost immediately.

33. Coming to the sequence of events leading to the registration of the case it may perhaps be better to adopt a contrarian approach starting from

the time at which the special report was delivered to the Chief Judicial Magistrate at 3.50 PM and work one"s way backwards.

34. According to the prosecution, the occurrence took place at 9.30 AM and Makhan Singh reached Rajindera Hospital at 9.45 AM, within 15

minutes. Therefore, if the Chief Judicial Magistrate received the special report at 3.50 PM, the FIR may well have been finalized as late as 3.15 or

3.20 PM. It is hard to accept that Mohinder Pal Singh Hundal"s statement was recorded as early as 11.20 AM and FIR registered at 11.50 AM.

35. At this stage one may also consider the movements of the person who actually scribed the statement of the informant at 9.30 AM which

formed the basis of FIR. The statement is exhibit PB and was written in long hand in Punjabi script. The statement was signed by Mohinder Pal

Singh Hundal, attested by ASI Arshdeep Singh. Police proceedings were also written in Punjabi and concluded at 11.30 AM and delivered at

Police Station Sadar, Patiala, where it was entered in the DDR at 11.50 AM. Recording of the FIR was concluded at 12.50 PM. Whereafter a

copy of the same was despatched as special report to the Area Magistrate (CJM).

36. ASI Arshdeep Singh was cross-examined wherein he categorically stated that on March 26, 1992 he did not write any document during

investigation of the case though documents were written on his dictation and signed by him. Request for post-mortem had been scribed by the

same person who had scribed ruqa (Ex. PB) but he did not recollect his name. It is quite obvious that once ASI Arshdeep Singh denied that he

had hand written the ruqa, the defence should have examined him on this question more carefully to locate the person who had scribed exhibit PB,

unless this had already been done during the pre- trial preparation of the case. The defence examined C. Babu Singh (CW-2), C. Gurmel Singh

(DW-4), C. Gurmit Singh (DW-5) for this purpose and ultimately SI Harbhajan Singh (DW-6) appeared and admitted that exhibit PB had been

written by him. Why the prosecution played this game of hide and seek is difficult to understand. ASI Arshdeep Singh (PW-12) may have been,

for some good reason reluctant to write the ruqa. In such eventuality, he ought to have, as a good witness which every police officer should be,

disclosed who the scribe was and told the truth instead of hedging the issue and stonewalling the defence. C. Bachana Ram (DW-7) is the official

who testified that QST had been received from SHO, Police Station Sadar, Patiala at 12.30 PM on February 26, 1992 to the effect that a murder

had been committed at the Bahadurgarh factory. It was on receipt of this information that ASI Harbahajan Singh In-charge D.C.W. Police Post

had left the police post for the place of occurrence. This would establish that uptill 12.30 PM ASI Harbahajan Singh had no information about the

murder and it was impossible for him to be physically present with ASI Arshdeep Singh when ruqa exhibit PB was stated to have been drawn by

him and concluded at 11 20 AM.

37. The explanation given by the learned Additional Advocate General, appearing for the State was that ASI Arshdeep Singh was already on

patrol duty since 6.30 a.m. and had received information of the murder on his vehicle's wireless set and reached the spot. Indeed ASI Harbahajan

Singh had testified in this regard. Therefore, it is surprising that the prosecution should try to conceal the name of the scribe of exhibit PB when

there was a plausible and valid explanation available. Such clever tactics establish that the prosecution witnesses had a lot to hide and had no

intention to give in easily.

38. The question that remains to be considered is whether, in the face of the above confusion which clearly establishes that the matter was reported

to the police after much delay, the statement of Mohinder Pal Singh Hundal (PW-4) with regard to the occurrence can be accepted at all. The

defence argument that Balwinder Singh had been stabbed in a nearby plot has already been rejected because in view of the fatal nature of the

injury received, which led to his immediate death, he would not have been able to walk from the plot to the place where his death body lay.

Nevertheless there are other questions which also arise, like failure of the police to collect his turban and shoes, lack of evidence of witnesses who

saw the two eye witnesses and the deceased standing at the spot taking tea. It is not for us to conjecture as to why seminal discharge was present

on the penis of the deceased as there was nothing to suggest that during or before the occurrence the deceased had indulged in any sexual activity.

However, there does not appear to be any real motive for any of the accused to stab the deceased. If at all, Mohinder Pal Singh Hundal would

have been the target of the ire of the accused party which was headed by Mohinder Singh Khalsa, the immediate past President of the Union but

Mohinder Pal Singh Hundal escaped unscathed.

39. We have gone through the testimonies of the witnesses and have heard the arguments of the learned counsel for the appellants and the State.

We come to the conclusion that the occurrence had taken place at the very spot where Balwinder Singh was stabbed and where his dead body

lay, although there may have been some prior incident during the course of which he lost his turban and shoes. The absence of tea cups is not

significant. The presence of only one cut each on the shirt and vest is also insignificant because during the occurrence the garments may have got

pulled up revealing the bare body when the wounds were inflicted. We are of the opinion that the delay in reporting the matter to the police as

demonstrated above had introduced an exaggerated version of the case. This had led to the false involvement of a large number of persons.

Balwinder Singh was stabbed thrice by the same man who whipped out his kirpan from his gatra, without any of the other accused sharing any

intention to murder Balwinder Singh or attack him in furtherance to any common intention.

40. As regards the participation of Didar Singh, the learned Trial Judge found that he had not shared any intention with the other accused in the

murder of Balwinder Singh. The learned Trial Judge had also given the benefit of doubt to four of the accused involved in this case and acquitted

them, as already noted. As a matter of fact, Gurpal Singh, Kulwant Singh and Nirmal Singh should have also been given the same benefit of doubt

as had been extended to Bahadur Singh, Lakhbir Singh, Harpreet Singh and Harvinder Singh. Balwinder Singh was repeatedly stabbed by

Mohinder Singh Khalsa. No one out of Gurpal Singh, Kulwant Singh and Nirmal Singh had shared common intention with Mohinder Singh Khalsa.

Therefore, they are entitled to receive the benefit of doubt. Consequently, the appeal qua Gurpal Singh, Kulwant Singh and Nirmal Singh is

accepted and they are acquitted of the charge.

41. Mohinder Singh Khalsa died on February 17, 2002 and his death certificate has been taken on record. Therefore, Mohinder Singh Khalsa's

appeal stands abated. Didar Singh's conviction is confirmed but sentence is suspended and he is given benefit of probation. He shall be released

on probation and shall remain on probation for the period of two years on furnishing bail bond in the sum of Rs. 10,000/-, undertaking to keep

peace and maintain good behaviour. In case of failure to abide by the said undertaking, he shall be taken into custody to serve the remaining part of

his sentence.

42. With the above modifications, the appeal stands disposed of.