IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP(Crl.) No(s). 8944 of 2022)

HARJINDER SINGH @ KALA .....APPELLANT(S)

VERSUS

STATE OF PUNJAB ....RESPONDENT(S)

O R D E R

1. Heard.

2. Leave granted.

3. The appellant Harjinder Singh @ Kala was tried by the learned Additional Sessions Judge, S.A.S. Nagar, Mohali[1] in Sessions Case No. 83 of 1.12.2014, for the offence punishable under Section 302, Indian Penal Code, 1860[2]. *Vide* judgment dated 17th September, 2015, the trial Court convicted the appellant for the aforesaid offence and sentenced him to undergo imprisonment for life and to pay a fine of Rs. 5,000/- and in default of payment

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Reason:

[1] Hereinafter referred to as 'trial Court'.
[2] For short, 'IPC'.

of fine, to undergo further rigorous imprisonment for a period of six months.

4. The appellant filed an appeal[3] against the judgment of conviction and the order of sentence passed by the trial Court before the High Court of Punjab and Haryana at Chandigarh.[4] The Division Bench of the High Court, *vide* judgment dated 19th March, 2019, rejected the criminal appeal preferred by the appellant, which is assailed in this appeal by special leave.

5. Brief facts that are relevant and essential for the disposal of this appeal are noted hereinbelow.

6. Mahant Narain Dass was a hermit who had been residing in the Village Garagan since last 30-35 years. Narain Dass had constructed a room on the *shamlat* land of the village about 7 years back in which he had permitted Santokh Singh of Village Chonta, District Ludhiana to reside. Santokh Singh was living in the said room with his family, and he had been providing food to Narain Dass in *lieu* of the permission to live in his premises. Four to five days prior to the murder of Narain Dass, the Gram Panchayat had issued a notice to Narain Dass to vacate the said premises as it was illegally constructed on the public property of the village.

[3] CRA-D No. 1557-DB of 2015 (O&M).
[4] Hereinafter referred to as 'High Court'.

Resultantly, Narain Dass asked Santokh Singh and his family members to vacate and leave the premises.

7. On 14th August, 2014, Nachhattar Singh(PW-3), a village *panch*, tried to reach Narain Dass. Upon finding that Narain Dass was not responding, he visited his place and found him lying lifeless on the cot. Nachhattar Singh(PW-3) noticed injury marks made by sharp weapons on the right side of the face and abdomen of the deceased Narain Dass and accordingly, he immediately reported the matter to the police whereupon, FIR No. 117[5] dated 14th August, 2014 came to be registered under Section 302 read with Section 34 IPC at the Police Station Sadar Kharar against unknown assailants. Dr. Parminderjit Singh(PW-5) conducted the postmortem examination on the dead body of Narain Dass and the cause of death was opined to be shock and haemorrhage due to *ante* mortem injuries.[6] S.H.O. Bhagwant Singh(PW-7) started investigation of the case. The prosecution alleges that on 19th August, 2014, the appellant Harjinder Singh[7] approached the village Sarpanch, Balwinder Singh(PW-4) and tendered an extra-judicial confession to the effect that he had murdered Narain Dass.

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[5] Ex. PW7/B.
[6] Ex. PW5/A.
[7] Hereinafter referred to as 'appellant'.

The Sarpanch convinced the appellant to surrender and thereupon, he was arrested. The appellant made a disclosure statement(Ex.PW2/D) to the Investigating Officer, whereby the knife which was used to commit the crime was recovered. Investigation was conducted and a chargesheet was presented in the Court of the Ilaqa Magistrate concerned for the offence punishable under Section 302 IPC.

8. The case was committed and entrusted for trial to the trial Court. Charge was framed against the appellant for the offence punishable under Section 302 IPC. He pleaded not guilty and claimed trial.

9. The prosecution examined as many as 7 witnesses and exhibited certain documents to prove its case. The appellant was questioned under Section 313 of the Code of Criminal Procedure, 1973[8], and was confronted with the circumstances appearing against him in the prosecution evidence, which he refuted and claimed to have been falsely implicated.

10. He emphatically stated that he had never suffered a disclosure statement, and the weapon had been planted upon him. He claimed that he was working in a school, and he was on duty

[8] For short, 'CrPC'.

at the time when deceased Narain Dass was murdered. He further stated that he was maintaining cordial relations with deceased Narain Dass and was looking after him with love and affection. He alleged that he was falsely implicated in this case since the village Gram Panchayat wanted to forcibly obtain the possession of the land in his occupation and thereby, expel his family members. He also claimed that he and his parents were arrested by the police and were manhandled, and it was only with the intervention of the Sarpanch of the neighbouring village, Ranva that his parents were released from custody. Four witnesses were examined by the defence.

11. Upon conclusion of proceedings, the trial Court proceeded to convict the appellant and sentenced him in the above terms *vide* judgment dated 17th September, 2015. Aggrieved by the judgment of conviction and order of sentence, the appellant filed an appeal[9] before the High Court, which was dismissed *vide* judgment dated 19th March 2019, which is assailed in this appeal by special leave.

12. We have heard and considered the submissions advanced at the bar and have gone through the impugned judgments and have scrutinized the evidence placed on record.

[9] *Supra* note 3.

13. At the outset, we may note that the case of the prosecution is based purely on circumstantial evidence as none of the witnesses examined by the prosecution claimed to have seen the actual incident. The law regarding the appreciation of evidence in a case based on circumstantial evidence has been well settled by a plethora of decisions. The *locus classicus* on this issue being ***Sharad Birdhichand Sarda v. State of Maharashtra***[10], wherein this Court formulated the five golden principles (*Panchsheel*) regarding appreciation of evidence in a case based on circumstantial evidence and held as follows: -

> "**153.** A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:
>
> **(*1*) the circumstances from which the conclusion of guilt is to be drawn should be fully established.**
>
> **(*2*) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,**
>
> **(*3*) the circumstances should be of a conclusive nature and tendency,**
>
> **(*4*) they should exclude every possible hypothesis except the one to be proved, and**
>
> **(*5*) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the**

[10] (1984) 4 SCC 116.

> **accused and must show that in all human probability the act must have been done by the accused.**"
>
> (emphasis supplied)

14. Having noted these principles governing a case based on circumstantial evidence, we now proceed to discuss the evidence led by the prosecution to bring home the charges against the appellant. The prosecution presented the following circumstances in its endeavour to establish the charge of murder against the appellant: -

(i) The extra-judicial confession made by the appellant to the village Sarpanch, Balwinder Singh(PW-4).

(ii) The motive, *i.e.*, to say that the appellant was annoyed by the insistence of Narain Dass to vacate the premises where he was residing and fuelled by this motive, he committed the murder on the intervening night of 13th and 14th August, 2014.

(iii) The disclosure statement made by the appellant leading to the recovery of the blood-stained knife used in the commission of crime and the clothes worn by the appellant at the time of the incident.

15. The prosecution heavily relied upon the extra-judicial confession, as contained in the testimony of the village Sarpanch, Balwinder Singh(PW-4), in whose presence, the said extra-judicial confession and incriminating recoveries were allegedly made, which ultimately led to the conviction of the appellant.

16. It is a cardinal principle of criminal jurisprudence, that an extra-judicial confession must be accepted with great care and caution. If found reliable and convincing, an extra-judicial confession may be used as corroboration for other evidence to record conviction of the accused. This Court had the occasion to deal with the evidentiary value of an extra-judicial confession in ***Sahadevan v. State of T.N.***[11], wherein it was held that:-

> "14. It is a settled principle of criminal jurisprudence that **extra-judicial confession is a weak piece of evidence. Wherever the court, upon due appreciation of the entire prosecution evidence, intends to base a conviction on an extra-judicial confession, it must ensure that the same inspires confidence and is corroborated by other prosecution evidence**. If, however, the extra-judicial confession suffers from material discrepancies or inherent improbabilities and does not appear to be cogent as per the prosecution version, it may be difficult for the court to base a conviction on such a confession. **In such circumstances, the court would be fully justified in ruling such evidence out of consideration.**
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> 16. Upon a proper analysis of the above referred judgments of this Court, it will be appropriate to state **the principles which would make an extra-judicial confession an admissible** piece of evidence capable of forming the basis of conviction of an accused. **These precepts would guide the judicial mind**

[11] (2012) 6 SCC 403.

while dealing with the veracity of cases where the prosecution heavily relies upon an extra-judicial confession alleged to have been made by the accused:

(i) The **extra-judicial confession is a weak evidence by itself. It has to be examined by the court with greater care and caution**.

(ii) It **should be made voluntarily and should be truthful**.

(iii) It **should inspire confidence**.

(iv) An extra-judicial confession **attains greater credibility and evidentiary value if it is supported by a chain of cogent circumstances and is further corroborated** by other prosecution evidence.

(v) For an extra-judicial confession to be the basis of conviction, **it should not suffer from any material discrepancies and inherent improbabilities**.

(vi) Such statement essentially **has to be proved like any other fact and in accordance with law**."

(emphasis supplied)

17. In ***Kalinga v. State of Karnataka,***[12] this Court further deliberated upon the evidentiary value of an extra-judicial confession, and held therein:-

"15. The conviction of the appellant is largely based on the extra-judicial confession allegedly made by him before PW 1. So far as an extra-judicial confession is concerned, **it is considered as a weak type of evidence and is generally used as a corroborative link to lend credibility to the other evidence on record.** In Chandrapal v. State of Chhattisgarh, this Court reiterated the evidentiary value of an extra-judicial confession in the following words:

"11. ...This court has consistently held that an extra-judicial confession is a weak kind of evidence and unless it inspires confidence or is fully corroborated

[12] (2024) 4 SCC 735.

> by some other evidence of clinching nature, **ordinarily conviction for the offence of murder should not be made only on the evidence of extra-judicial confession.** As held in State of M.P. v. Paltan Mallah, the extra-judicial confession made by the co-accused could be admitted in evidence only as a corroborative piece of evidence. **In absence of any substantive evidence against the accused, the extra-judicial confession allegedly made by the co-accused loses its significance and there cannot be any conviction based on such extra-judicial confession** of the co-accused."
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> 16**. It is no more res integra that an extra-judicial confession must be accepted with great care and caution.** If it is not supported by other evidence on record, it fails to inspire confidence and in such a case, it shall not be treated as a strong piece of evidence for the purpose of arriving at the conclusion of guilt. Furthermore, the extent of acceptability of an extra-judicial confession depends on the trustworthiness of the witness before whom it is given and the circumstances in which it was given. The prosecution must establish that a confession was indeed made by the accused, that it was voluntary in nature and that the contents of the confession were true. **The standard required for proving an extra-judicial confession to the satisfaction of the Court is on the higher side and these essential ingredients must be established beyond any reasonable doubt.** The standard becomes even higher when the entire case of the prosecution necessarily rests on the extra-judicial confession."
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> (emphasis supplied)

18. It is undisputed that initially, nobody suspected that the appellant had committed the murder of Narain Dass, and consequently, the FIR was registered against unknown persons on 14th August, 2014. The appellant came to be implicated only on 19th August, 2014, *i.e.,* when he allegedly made an extra-judicial confession to the village Sarpanch, Balwinder Singh(PW-4).

19. Apparently, when no finger of suspicion was pointing towards the appellant, he could not have had any plausible reason to abruptly go and make a confession to the village Sarpanch, Balwinder Singh(PW-4). The relevant extract of the testimony of the said witness is produced hereinbelow:-

> "I told the accused why he committed the murder of Narain Dass. Then the accused disclosed me that he along with his family were residing in the room which was constructed by Narain Dass in the shamlet land of the village and they were taking care of Narain Dass in lieu of that land and also gave meals to him. **He further disclosed that now at about 4-5 days prior to the incident the gram Panchayat of village Granga Issued notice to Narain Dass to vacate the above said room from the shamlet land and Narain Dass asked us to vacate the said room. Thus is why he felt bad and due to this reason, he committed the murder of Narain Dass.**"
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> (emphasis supplied)

20. On a fair reading of the above extract, it is clear that while narrating the facts pertaining to the extra-judicial confession, village Sarpanch, Balwinder Singh(PW-4) also stated that the appellant, while making the extra-judicial confession, had also narrated about the notice issued by the Gram Panchayat of the village to deceased Narain Dass for vacating the room, and the consequential insistence made by deceased Narain Dass to the appellant for vacating the premises.

21. We are of the view that this very narration by village Sarpanch, Balwinder Singh(PW-4), makes the entire theory of

extra-judicial confession suspicious and highly improbable. It is relevant to mention that no such notice, purportedly issued by the Gram Panchayat to deceased Narain Dass for vacating the *shamlat* land, was brought on record by the prosecution. Furthermore, if at all, there was any such notice or a proceeding, then immediately upon the murder of Narain Dass being reported, the finger of suspicion should have turned towards the appellant, who was staying in the premises constructed by the deceased and would bear the brunt of the eviction notice.

22. During his cross-examination, village Sarpanch, Balwinder Singh(PW-4) admitted that he was not present when the incident took place. He further stated that after the murder of Narain Dass, the Gram Panchayat got the land vacated, and family members of the appellant removed their hut. Before the incident, deceased Narain Dass never complained about the appellant or his family members to him or to the village Gram Panchayat. For the past eight years, the appellant and his family were providing food to deceased Narain Dass. A specific suggestion was given to the said witness that the village Gram Panchayat got the appellant framed and thereby, got the land vacated, which of course he denied.

23. Further, the appellant was a free bird and no suspicion whatsoever was cast either on the appellant or his family members for the murder of Narain Dass. Going by the statement of village Sarpanch, Balwinder Singh(PW-4), the status of both the deceased Narain Dass, as well as of the appellant was that of trespassers over the Gram Panchayat land. Hence, if it was contemplated to get the land vacated, the Gram Panchayat should have taken direct action of notifying the appellant to vacate the *shamlat* land. Hence, the entire story put-forth by village Sarpanch, Balwinder Singh(PW-4) regarding the extra-judicial confession allegedly made by the appellant is not credible and reliable. Thus, the same deserves to be discarded.

24. Now, we proceed to consider the second link of the circumstantial evidence *i.e.* theory of motive. It is *trite* that proof of motive is not *sine qua non* in a case of murder. However, in a case based purely on circumstantial evidence, motive assumes significance and would provide an important corroborative link in the chain of incriminating circumstances.

25. In ***State (Delhi Admn.) v. Shri Gulzari Lal Tandon***,[13] this Court shed light on the relevance of proving motive in a case based on circumstantial evidence in the following terms: -

> "1. … We might also mention that **in cases where the case of the prosecution rests purely on circumstantial evidence, motive undoubtedly plays an important part in order to tilt the scale against the accused.** It is also well-settled that the accused can be convicted on circumstantial evidence only if every other reasonable hypothesis of guilt is completely excluded and the circumstances are wholly inconsistent with the innocence of the accused. …"
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> (emphasis supplied)

26. The prosecution, in its story, has attributed a slender motive to the appellant by alleging that the Gram Panchayat had asked the deceased Narain Dass to vacate the premises and as a sequel thereto, he conveyed to the appellant and his family that they would have to vacate the room in which they were living. Disgruntled by the same, the appellant committed the murder of Narain Dass on the intervening night of 13th and 14th August, 2014.

27. We are of the opinion that the aforesaid allegation seems to be nothing but a sheer conjecture. The prosecution has led no evidence to show that the appellant was seen or heard protesting or was annoyed upon receiving the intimation to vacate the

[13] 1979 SCC OnLine SC 202.

premises in which he was staying with the permission of deceased Narain Dass.

28. The trial Court held that in *lieu* of the permission to live in the premises of deceased Narain Dass, the appellant and his family members were providing him food, etc. Thus evidently, the appellant had no motive whatsoever to commit the murder of Narain Dass.

29. Considering these facts, we are of the view that the trial Court, as well as the High Court made a grave error in concluding that the prosecution has been able to prove the motive for the murder of Narain Dass as against the appellant beyond all reasonable doubts.

30. The third and last link in the chain of incriminating circumstances relied upon by the prosecution is that of the recovery of the alleged murder weapon *i.e.*, the knife, effected on the basis of the disclosure statement[14] made by the appellant and his blood-stained clothes.

31. In this regard, we have gone through the testimony of the Investigating Officer, S.H.O. Bhagwant Singh(PW-7), and found that the witness has not given any detail whatsoever regarding the

[14] Exhibit-PW2/D.

disclosure statement allegedly suffered by the appellant. In addition thereto, the said witness has not even stated that the appellant led him to the place where the knife was concealed.

32. While analyzing the jurisprudence on proving of disclosure statements, this Court has held in ***Babu Sahebagouda Rudragoudar v. State of Karnataka***[15] as under:-

> "**64.** The manner of proving the disclosure statement under Section 27 of the Evidence Act has been the subject-matter of consideration by this Court in various judgments, some of which are being referred to below.
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> **66.** Further, in ***Subramanya v. State of Karnataka [Subramanya v. State of Karnataka, (2023) 11 SCC 255***], it was held as under : (SCC pp. 299-300, paras 76 to 78)
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> > "**76.** Keeping in mind the aforesaid evidence, we proceed to consider whether the prosecution has been able to prove and establish the discoveries in accordance with law. Section 27 of the Evidence Act reads thus:
> >
> > > *'**27.** How much of information received from accused may be proved.—Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.'*
> >
> > **77.** The first and the basic infirmity in the evidence of all the aforesaid prosecution witnesses is that none of them have deposed the exact statement said to have been made by the appellant herein which ultimately led to the discovery of a fact relevant under Section 27 of the Evidence Act.
> >
> > **78. If, it is say of the investigating officer that the appellant-accused while in custody on his own free will and volition made a statement that he would lead to the place where he had hidden the weapon of**

[15] (2024) 8 SCC 149.

> **offence, the site of burial of the dead body, clothes, etc. then the first thing that the investigating officer should have done was to call for two independent witnesses at the police station itself. Once the two independent witnesses would arrive at the police station thereafter in their presence the accused should be asked to make an appropriate statement as he may desire in regard to pointing out the place where he is said to have hidden the weapon of offence, etc. When the accused while in custody makes such statement before the two independent witnesses (panch witnesses) the exact statement or rather the exact words uttered by the accused should be incorporated in the first part of the panchnama that the investigating officer may draw in accordance with law. This first part of the panchnama for the purpose of Section 27 of the Evidence Act is always drawn at the police station in the presence of the independent witnesses so as to lend credence that a particular statement was made by the accused expressing his willingness on his own free will and volition to point out the place where the weapon of offence or any other article used in the commission of the offence had been hidden. Once the first part of the panchnama is completed thereafter the police party along with the accused and the two independent witnesses (panch witnesses) would proceed to the particular place as may be led by the accused. If from that particular place anything like the weapon of offence or bloodstained clothes or any other article is discovered then that part of the entire process would form the second part of the panchnama. This is how the law expects the investigating officer to draw the discovery panchnama as contemplated under Section 27 of the Evidence Act.** If we read the entire oral evidence of the investigating officer then it is clear that the same is deficient in all the aforesaid relevant aspects of the matter."

(emphasis supplied)

33. This Court has highlighted the importance of a perspicuous and detailed testimony when relying on a disclosure statement leading to recovery of the weapon used in the commission of crime

in the case of ***Ramanand v. State of U.P.,***[16] which is reproduced hereinbelow: -

> **"54. The reason why we are not ready or rather reluctant to accept the evidence of discovery is that the investigating officer in his oral evidence has not said about the exact words uttered by the accused at the police station.** The second reason to discard the evidence of discovery is that the investigating officer has failed to prove the contents of the discovery panchnama. The third reason to discard the evidence is that even if the entire oral evidence of the investigating officer is accepted as it is, what is lacking is the authorship of concealment. …Therefore, we are now left with the evidence of the investigating officer so far as the discovery of the weapon of offence and the blood-stained clothes as one of the incriminating pieces of circumstances is concerned. We are conscious of the position of law that even if the independent witnesses to the discovery panchnama are not examined or if no witness was present at the time of discovery or if no person had agreed to affix his signature on the document, it is difficult to lay down, as a proposition of law, that the document so prepared by the police officer must be treated as tainted and the discovery evidence unreliable. In such circumstances, the Court has to consider the evidence of the investigating officer who deposed to the fact of discovery based on the statement elicited from the accused on its own worth.
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> **55.** Applying the aforesaid principle of law, we find the evidence of the investigating officer not only unreliable but we can go to the extent to saying that the same does not constitute legal evidence.
>
> **56.** The requirement of law that needs to be fulfilled before accepting the evidence of discovery is that by proving the contents of the panchnama. **The investigating officer in his deposition is obliged in law to prove the contents of the panchnama and it is only if the investigating officer has successfully proved the contents of the discovery panchnama in accordance with law, then in that case the prosecution may be justified in relying upon such evidence** and the trial court may also accept the evidence…."
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> (emphasis supplied)

[16] 2022 SCC OnLine SC 1396.

34. It is further noteworthy that the Investigating Officer, S.H.O. Bhagwant Singh(PW-7) did not state that the knife, which was allegedly recovered at the instance of the appellant, was sealed and thereafter forwarded to the FSL for forensic examination, which makes the recovery of the alleged murder weapon inconsequential. Thus, the recovery of the knife purportedly used in commission of murder, is of no avail to the prosecution.

35. In addition, thereto, it is the case of the prosecution that the blood-stained *pyjama* allegedly worn by the appellant at the time of the incident was also recovered in furtherance of his disclosure statement. However, the FSL report produced on record does not indicate any positive conclusion of blood grouping which could connect the weapon *i.e.*, the knife and the clothing (stained *pyjama*) with the blood group of the deceased. This is again a material rift in the case of the prosecution and makes their entire case doubtful.

36. No other evidence was led by the prosecution to bring home the guilt of the appellant. Therefore, we find that the prosecution has failed to prove even one of the so-called incriminating circumstances attributed to the appellant so as to affirm his guilt.

37. As a consequence of the discussion made hereinabove, the conviction of the appellant and the order of sentence as recorded by the trial Court and affirmed by the High Court cannot be sustained. The impugned judgments do not stand to scrutiny and are hereby quashed and set aside.

38. The appellant is acquitted of the charge under Section 302 IPC. He is on bail and need not surrender. The appeal is allowed accordingly.

39. Pending application(s), if any, shall stand disposed of.

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

New Delhi;
January 22, 2025