
(2013) 05 P&H CK 0147
In the Punjab And Haryana At Chandigarh
Case No : Crl. A. No. 517-DB of 2006

Kulwinder Singh and Others

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 06-05-2013

Acts Referred:

Citation : (2013) 05 P&H CK 0147

Hon'ble Judges : Muttaci Jeyapaul, J;Inderjit Singh, J

Bench : Division Bench

Judgement

M. Jeyapaul, J.—The 6th Accused Gurjit Singh has filed Crl.A. No. 492-DB of 2006 and Accused No. 1 to 5 have filed Crl.A. No. 517-DB of 2006. Both the appeals have arisen out of the same judgement. Therefore, common arguments were heard in order to dispose of both the appeals by a common judgement. Appellant Gurjit Singh who filed Crl.A. No. 492-DB of 2006 had jumped parole. Mr. Vinod Ghai, Sr. Advocate who originally entered appearance for him reported no instructions for him. But he was appointed by this Court as Amicus Curiae to argue the appeal on behalf of appellant Gurjit Singh and also assist this Court.

2. The appellants were convicted for the offence u/s 143 IPC and were sentenced to undergo rigorous imprisonment for a period of 3 months. They were also convicted u/s 364 IPC and were sentenced to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs. 1000/- each and in default to undergo rigorous imprisonment for a further period of 6 months each. They were convicted u/s 342 IPC and were sentenced to undergo rigorous imprisonment for a period of 6 months each. They were also convicted u/s 302 read with Section 149 IPC and were sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 1000/- each and in default to undergo rigorous imprisonment for a further period of 6 months each. Aggrieved by the above verdict passed by the trial Court, these two appeals have been preferred as stated supra.

3. The brief case of the prosecution is as follows. PW 3 Pal Singh, the father of deceased Ravinder Singh lodged a complaint Ex. P18 on 19.1.2004, wherein it

has been alleged that his son Ravinder Singh owned a Ceilo car bearing registration No. DL2CG-9837. The car was left at Chandigarh Workshop at Sherpur on 2.1.2004 as the engine of the said car seized. On the same day, two police officials visited his house. They informed him that DSP of Sherpur wanted the presence of Ravinder Singh. PW 3 informed those police officials that his son had gone out and he would produce him later. The police officials enquired about the vehicle owned by Ravinder Singh. PW 3 came to know that car of his son had been taken to the police station Sherpur through a towing vehicle. The panchayatdars alongwith Sarpanch proceeded to the police station Sherpur and enquired about the matter. But justice was not done to PW 3. The police officials insisted that Ravinder Singh should be produced to the police station. In order to secure the presence of Ravinder Singh, the police officials took PW 3 to the police station and gave him beating. They also threatened PW 3 that the consequences would be very bad if Ravinder Singh was not produced. Apprehending action by the police officials, Ravinder Singh moved an application for anticipatory bail before the Sessions Court. The police officials, having received the notice from the Sessions Court on the bail application, reported to the Court that no case was registered against him nor was the presence of Ravinder Singh required in connection therewith. Ultimately, the Sessions Judge dismissed the application for anticipatory bail moved by Ravinder Singh.

4. PW 3 also submitted an application before the higher police officials. On 18.1.2004 at about 2.00 p.m., the police officials headed by SHO Kulwinder Singh forcibly took away his son Ravinder Singh in the presence of his relative PW 4 Pritam Singh and PW 5 Sarpanch Manjit Singh. All of them met DSP Sherpur. He directed them to meet SHO of Sherpur. In the meanwhile Sarabjit Singh of village Didargarh and Sandeep Singh of village Kalla Bulla were also taken custody by the police. The entire panchayat proceeded to meet the SHO. But a police vehicle took away Ravinder Singh. Later on they came to know that Ravinder Singh had been tortured to death by Kulwinder Singh and other police officials and the dead body of Ravinder Singh was taken to the hospital. The entire torture had been arranged by the DSP. Everything had been done only with the blessings of the DSP.

5. The aforesaid complaint was registered u/s 323, 342/ 34 and 302 IPC. Inspector Piara Singh took up the case for investigation. He moved an application Ex. P2 to the Sub Divisional Magistrate for conducting inquest proceedings u/s 176 Cr.P.C. On the basis of the orders passed by SDM, Dhuri, a Medical Board was constituted. The post mortem examination was conducted by the Medical Board and the same was videographed. The copy of the post mortem report was marked as Ex. P4. The SDM, Dhuri conducted inquest proceedings and submitted inquest report Ex. P32. The delivery receipt of the car Ex. P43 was recovered by the Inspector of Police. He also got the car mechanically tested on 9.3.2004 and thereafter a challan was laid as against the accused.

6. Accused Kulwinder Singh, Yudhishtar Singh, Chamkaur Singh, Sohan Singh

and Mukhtiar Singh faced the charges. After recording of evidence of PW 6 Sarabjit Singh, DSP Gurjit Singh was arrayed as one of the accused invoking the provision u/s 319 Cr.P.C. Thereafter, fresh charges were framed as against all the accused.

7. PW 1 Dr. R.P. Jindal, Medical Officer, Civil Hospital Dhuri has deposed before the trial Court that he was the Chairman of the Medical Board constituted for the purpose of conducting post mortem examination on the dead body of Ravinder Singh. On examination of dead body, he found rigor mortis were fully developed. Post mortem staining also was developed and fixed. The Medical Board found the following injuries:-

1. An abrasion measuring 4 mm in diameter, reddish in colour present over the right side of the forehead, 1 cm above right side eyebrow.
2. An abrasion measuring 1 cm in diameter on the dorsum of right at the base of middle finger. On dissection of injury No. 1 the underlying tissues and bones were found normal.

The Medical Board found that scalp, skull, vertebra, membrane, brain, spinal cord and thorax were all healthy and portion of right lung and heart were sent to the chemical examiner and pathologist. After the receipt of reports from the chemical examiner and pathologist, the Medical Board opined that the cause of death could not be ascertained, but, however, the possibility of death due to Syncope as a result of Vagal Inhibition cannot be ruled out.

8. PW 2 Dr. Ramesh Sharma, Medical Officer attached to Civil Hospital, Dhuri deposed that he examined Sandeep Singh on 18.1.2004 at about 9.40 p.m. He came with the history of injuries caused to him by the police. They found the following injuries:-

1. He complained of pain in the lumbar region with i.e. tender localized tenderness. X-ray was advised.
2. He complained of pain on the lower side of feet. There was no external mark of injury. Localized tenderness was present.
3. He complained of pain in the scrotal region. There was no external mark of injury.
4. He complained pain in the pinna. There was no external mark of injury.
5. He complained loss of sensation on the posterior aspect of left hand. No external mark of injury was seen.

He opined that injuries No. 2, 3 & 4 were simple. Injury No. 5 was kept under observation. It is his opinion that a blunt weapon might have been used. He also subjected Sarabjit Singh to medico-legal examination on the said day. He was also brought with the alleged history of injuries sustained by him due to police torture. The following injuries were found on his person:-

1. There was reddish contusion on the posterior lateral aspect of right leg on its lower part. Advised X-ray;
2. There was a reddish contusion mark 3" above injury No. 1;
3. He complained of pain on the right gluteal region with no external mark of injury;
4. He complained of pain on both the feet of lower side with no external mark of injury;
5. He complained of pain from the upper abdomen. There was no external mark of injury;
6. He complained of pain in the right forearm on its distal part.

He has opined that a blunt weapon might have been used.

9. PW 3 Pal Singh, the father of victim Ravinder Singh and the complainant in this case has deposed supporting his version in the complaint.

10. PW 4 Pritam Singh was an Advocate hailing from Malerkotla. He also spoke to the beating of Ravinder Singh by police party in his presence.

11. PW 5 Surjit has deposed that the deceased Ravinder Singh was picked up by the police party consisting of Kulwinder Singh, Yudhister Singh, Mukhtiar Singh, Chamkaur Singh and Sohan Singh.

12. PW 6 Sarabjit Singh who sustained injury turned hostile to the case of the prosecution. He was confronted with his earlier statement under Ex. P19, but he refused to own the same.

13. PW 8 Dr. Gurpreet Singh Nagra attached to Primary Health Centre, Sherpur deposed that on 18.1.2004 at about 5.40 p.m., SHO Kulwinder Singh alongwith other police officials brought a patient in Government vehicle. The patient was lying at the back of the vehicle and his condition was very serious. Though he advised to the SHO to shift the patient inside the hospital, the SHO took away the patient without informing him.

14. PW 9 Pankaj Narang deposed that as per the registration certificate Ex. P22, the Ceilo car bearing registration No. DL2CG-9837 stands in the name of Bharat Hotel As per records, the vehicle was not transferred to anyone else.

15. PW 11 ASI Brij Mohan deposed that a telegram Ex. P24 was received in the complaint branch of the office of SSP, Barnala from Ravinder Singh S/o Pal Singh.

16. The accused were examined u/s 313 Cr.P.C. Accused Kulwinder Singh submitted that on 18.1.2004, he brought Ravinder Singh to the police station with his free will and consent. Ravinder Singh was keen to verify the discrepancy as regards the engine number of the car. Sarabjit Singh and Sandeep Singh were not brought to the police station. They were not even known to him. Ravinder

Singh became unconscious when he found the discrepancy as regards the engine number of the car. On 17.1.2004, accused Kulwinder Singh came to know that the car belonged to Ravinder Singh. He sent a Constable to bring him, but Ravinder Singh was not available. The next day he proceeded and came alongwith Ravinder Singh. He made an attempt to save the life of Ravinder Singh. The Doctor at Sherpur did not note anything in the register maintained by him. Kulwinder Singh took Ravinder Singh to Dhuri, but he was declared dead by the Doctor at Dhuri hospital. Ravinder Singh had no injury worth the name nor was he given any electric shock. Surprisingly, abrasion would have been received by him on account of his fall while doing agricultural work. He did not commit any crime. The witnesses Pritam Singh and Sarabjit Singh gave evidence in favour of the prosecution because they were relatives of the deceased. A challan had been falsely laid as against him, he further contended.

17. Accused Yudhishtar Singh adopted the plea of accused Kulwinder Singh.

18. Accused Chamkaur Singh submitted that he was deputed by MHC Jarnail Singh and H.C. Nirmal Singh to the office of DSP, Sherpur at 2.00 p.m. for receiving necessary documents/papers from the office of DSP, Sherpur and took the same to the office of SSP, Barnala. Having collected an application of Paramjit Kaur from H.C. Rajinder Kumar for delivering the same in the office of SSP, Barnala, accused Chamkaur Singh returned to the police station, Sherpur only on the next day. He has set up a plea of alibi.

19. Accused Sohan Singh also adopted the plea of accused Kulwinder Singh.

20. Accused Mukhtiar Singh took up a stand that he was posted as a Driver and therefore, he has no connection with the investigation of the case. He has been falsely implicated on suspicion, it is submitted.

21. Accused Gurjit Singh took up the plea that he has been falsely implicated in the case.

22. Accused examined DW 1 H.C. Rajinder Kumar. He deposed that on 18.1.2004, he was posted as Reader to DSP, Sheprur. He called Constable Chamkaur Singh from police station Sherpur for sending him to Barnala. The complaint of Paramjit Kaur was entrusted to him and his signature was obtained against the relevant entry in the dispatch register. A delivery receipt was submitted by Constable Chamkaur only the next day.

23. DW 2 ASI Gurdial Singh deposed that the complaint of Paramjit Kaur was received in his office on 19.1.2004 from DSP, Sherpur. It was sent to the SHO, Sherpur for registration of the case.

24. Accused brought on record the opinion of the Medical Board at Amritsar. The same was marked as Ex. DB. Infact, the same was obtained by the Investigating Officer from the Medical Board. The Medical Board at Amritsar had opined that possibility of Syncope was due to vagal inhibition. It could be possible even if there were no signs of physical torture/injury. The pre-arrest bail applications

moved by Harpal Singh was marked as Ex. DC and the application moved by Ravinder Singh was marked as Ex. DD. Dr. Gurpreet Singh Nagra on the basis of the request made by the Investigating Officer opined that the injuries on the person of Ravinder Singh could not have been caused by electric current. He has opined that possibility of injuries on the person of Ravinder Singh due to fall cannot be ruled out.

25. Learned Sessions Judge came down heavily upon the biased investigation embarked upon by the Investigating Officer Piara Singh. The organs sent for examination had not been properly preserved. There had been some swelling found in the kidney of the deceased that would have been the result of torture. Dr. Gurpreet Singh Nagra has chosen to give a go-by to his earlier version that Ravinder Singh was brought dead and chose to support the accused as though Ravinder Singh was brought in a very serious condition. The evidence of PW 3, PW 4 and PW 5 inspired confidence. The DDRs produced on the side of the accused were completely doctored. Learned Sessions Judge disbelieved the version of the accused in the facts and circumstances of this case that Ravinder Singh on his own volition came to the police station. The witnesses could clearly identify the accused. Shrieks raised by the deceased had been heard by the witnesses standing outside the police station. No explanation was forthcoming as to why the deceased shrieked when there was no torture. Accused Mukhtiar Singh also cannot escape from the culpability as he had associated himself in forcible picking up of Ravinder Singh and transportation of his dead body. The plea of natural death is not at all believable as there was in fact a torture as spoken to by the witnesses. The plea of alibi set up by Chamkaur Singh was also disbelieved as there was every possibility of creation of such documents by the police officials to save one of their brethren. The trial Court having thus discussed ultimately held that the prosecution established that all the accused, having formed unlawful assembly with a view to eliminate Ravinder Singh, abducted him with an intention to murder him and also having illegally confined him committed murder by giving torture to him.

26. Learned senior counsel appearing for the accused would vehemently submit that the prosecution has come out with only superficial injuries on the person of the deceased. The medical evidence would go to show that such injuries would not have caused the death of Ravinder Singh. The unassailable medical evidence to the effect that Ravinder Singh would have died due to Syncope as a result of Vagal Inhibition will have to be accepted. It is his submission that in such cases of death due to Syncope as a result of Vagal Inhibition, no symptom would be visible on the dead body. Referring to the report submitted by the Medical Board at Amritsar, he would submit that a clarity has been given in the report submitted by the Medical Board at Amritsar. They have come out with a definite opinion that there had been a possibility of death on account of Syncope due to vagal inhibition. Referring to the opinion expressed by the Medical Officer attached to Civil Hospital, Dhuri, he would submit that there was no possibility of causing injuries found on the person of the deceased by electric shock. In short,

the prosecution failed to establish that it was a homicidal death. There was no direct evidence to establish that substantial injury had been caused to Ravinder Singh. The presence of the accused had not been specifically referred to in the complaint lodged by PW 3. It was only the 1st accused Kulwinder Singh, SHO, Sherpur whose name alone found a place in the FIR. The improvements made by the witnesses during the course of evidence cannot be given much credence by the Court of Law. The injuries found on the person of the deceased were not sufficient to cause his death. Accused Chamkaur Singh had been to Barnala to discharge his official duty entrusted by the office of DSP Sherpur at the relevant point of time. Therefore, the alibi set up by accused Chamkaur Singh will have to be accepted. Accused Mukhtiar Singh was only a driver of the official vehicle of Sherpur Police Station. He had only discharged his official duty. Therefore, he cannot be implicated for the death of Ravinder Singh. Gurjit Singh who was serving as DSP Sherpur was not present at the time when the alleged abduction took place. Therefore, he cannot also be implicated in the case of murder. In the anticipatory bail application moved by the deceased, no whisper was made as to the episode surrounding the car allegedly owned by him. The records would show that he was not the owner of the vehicle. No test identification parade was conducted to identify the accused by PW 3, PW 4 & PW 5. Therefore, their evidence before the trial Court identifying them in the open Court cannot be accepted. Had the accused intended to murder Ravinder Singh, they would not have ventured to take away Ravinder Singh in broad daylight, that too, in the presence of witnesses. Even assuming that some injuries had been caused by the accused to the victim in the police station, they would not have intended to cause the death as it was only an enquiry which was embarked upon by SHO. For all these reasons it was submitted that the prosecution miserably failed to establish the charge of murder alleged against the accused.

27. Learned senior counsel appearing for the 6th accused adopted broadly the submissions made by the Mr. R.S. Cheema, learned senior counsel. We also heard the submissions made by learned Addl. A.G., Punjab supporting the verdict by the trial Court.

28. It is the admitted position that Ravinder Singh was subjected to enquiry in Sherpur Police Station. Two injuries, namely, abrasion measuring 4 mm in diameter, reddish in colour was found on the right side of the forehead and another abrasion measuring 1 cm in diameter was found on the dorsum of the right hand at the base of middle finger of the deceased. Ravinder Singh was ultimately taken to the Government Hospital at Dhuri where it was declared that he was brought dead.

29. The evidence on record would go to establish that Ravinder Singh had died at about 4.00 p.m. on 18.1.2004. PW 3, PW 4 and PW 5 had witnessed the official vehicle of the police station Sherpur going out of the police station with the dead body of Ravinder Singh at 4.00 p.m. on 18.1.2004. PW 8 had also stated during inquest that Ravinder Singh was brought dead at about 5.40 p.m. on that day.

Very conveniently, it has been informed to the post mortem Doctors that the death took place only on 18.1.2004 at 6.58 p.m. Post mortem examination commenced at 3.35 p.m. on 19.1.2004. It is found that there had been a delay of 24 hours in conducting the post mortem examination.

30. The post mortem report would go to show that rigor mortis were fully developed and post mortem staining also was developed and fixed. In our considered view, the examination of dead body had been unduly delayed just to obliterate the symptoms originally found on the dead body on account of two injuries found on the forehead and at the middle finger of the deceased.

31. To top it all, the Medical Board had not given any opinion as to whether there was any possibility of such injuries being caused to the deceased due to electric shock. At the entry point of the electric current passing through the body a burn injury may be found. But in order to destroy such symptom, it appears that the dead body was subjected to medical examination by the Board of Doctors only after 24 hours. It is quite possible that such a symptom would have vanished due to lapse of 24 hours. Infact, the Medical Board had not searched for any symptoms for electric shock on the dead body of Ravinder Singh, during the course of post mortem examination.

32. As per the "Electrical Marks in Electrocution Deaths", a 20 year Study published by the Medical University of Goatia, Forensics Department, in The Open Forensic Science Journal, 2012, an electric mark or burns were recorded only in 79% of cases and no detectable changes on the skin were found in the remaining 21%. Entry injury was found in 43% of the cases. Both entry and exit injuries were present in 20% of cases. Entry injuries were commonly found on the palms. In domestic settings, the entry and exit wounds are of the same size as they are Alternating or AC current.

33. As per the opinion of Modi in his treatise, Medical Jurisprudence and Toxicology, a well-moistened skin may display no electrical burn while a thick dry skin may exhibit a well-marked electrical burn. No wonder the two superficial injuries found on the deceased did not reflect burns.

34. Vagal Inhibition of the heart can be initiated by high neck compression, pressure on carotid sinus or sometimes by direct pressure over the trunk of the vagus nerve. Unexpected blows to the larynx, chest, abdomen and genital organs may lead to vagal inhibition. Vasovagal syncope is sudden unconsciousness due to vagal inhibition resulting from sudden decreased blood flow to the brain due to decreased cardiac output. In a case of death due to vagal inhibition, of course, no symptom would be found on the dead body. But, the facts and circumstances of this case would unerringly establish that it was a case of homicidal death only due to administration of electric shock. Our view is completely fortified by the exit and entry wounds found on the dead body.

35. Shrieks were heard from the deceased who was subjected to torture inside the police station as per the version of PW 3, PW 4 and PW 5. True it is that there

was no substantial injury found on the person of the deceased. But the circumstances in this case would unerringly point to the electric shock being administered to Ravinder Singh. It is only on account of that an entry and exit wound were found in the palm as well as in the forehead. The dead body was subjected to post mortem examination wantonly after much delay. The Medical Board also had not considered whether the death was due to electric shock. Everything has been camouflaged in this case just to make it appear that it was a case of natural death.

36. The occurrence had taken place on 18.1.2004 at Sherpur Police Station. Very interestingly, after the exit of the main accused Kulwinder Singh from the police station, the Investigating Officer Piara Singh had been appointed on 19.1.2004 and he took up the case and proceeded with the investigation. He submitted an application Ex. P2 to the Sub Divisional Magistrate, Dhuri requesting for conducting inquest proceedings u/s 176 Cr.P.C. Very interestingly, he had mentioned therein that Ravinder Singh got fits and was taken to Primary Health Centre, Sherpur and as per the advice of the Doctor he was taken to Civil Hospital, Dhuri. This is exactly the version of the accused. But unfortunately, the investigating officer in the course of his biased investigation had supplied a clue without any basis to the authority who had to conduct the inquest proceedings that the deceased had died on account of fits.

37. Piara Singh, the Investigating Officer in this case simply made a request to the Medical Officer attached to Civil Hospital, Dhuri to give an opinion as to whether Ravinder Singh would have died due to electric shock. The Doctor who had not examined the deceased simply gave an opinion in one cryptic sentence without assigning any reason that there was no possibility of such injuries to be caused by the electric current.

38. It is pertinent to refer at this stage the inconsistent stand taken by PW 8 Dr. Gurpreet Singh Nagra. The first version of Dr. Gurpreet Singh Nagra before the authority who conducted inquest was that Ravinder Singh was brought dead. In order to support the accused who were police officials, PW 8 having completely given a go-by to his first version before the authority who conducted inquest has come forward with a new case that the patient was brought in a serious condition. Though he advised the Inspector to shift the patient inside the hospital, accused SHO Kulwinder Singh took away the patient without informing him. Firstly, we find that PW 8 has come out with a total lie as regards his version that the patient was alive but was in a serious condition. Secondly, we find that PW 8 has deposed without any records maintained by him. The cock-and-bull story of PW 8 with a view to support the accused cannot at all be accepted.

39. PW 3, PW 4 & PW 5, the star witnesses in this case have categorically deposed that a pressure was mounted by the DSP and the SHO and other police officials on the father of Ravinder Singh to entrust Ravinder Singh to the police station. PW 3 Pal Singh, father of Ravinder Singh had informed the police officials

when they came down to his house on 2.1.2004 in connection with the subject car that Ravinder Singh had gone out. PW 3 had promised the police officials that he would produce Ravinder Singh. He had gone along with the Panchayat and Sarpanch to the police station. But the 6th accused Gurjit Singh, DSP had not given proper reply as to why Ravinder Singh was summoned. The 6th accused Gurjit Singh had insisted that Ravinder Singh should be produced. PW 3 had not budged to such a pressure mounted by the DSP through the SHO and other police officials. He was taken to the police station on 12.1.2004 and was given beating. He was directed to produce his son. A warning was also given that PW 3 had to face very serious consequences for giving telegrams to the higher police officials. Ravinder Singh had infact given a telegram to the Sr. Superintendent of Police clearly informing him that the Deputy Superintendent of Police had illegally detained his vehicle and had been conducting raid in his house intending to falsely implicate him. He infact sought protection to his person and property in the telegram sent by him on 8.1.2004 and received by the office of SSP on 9.1.2004. Thereafter, anticipatory bail application was moved before the learned Sessions Judge, but having recorded the statement made on the side of the Station House officer that no case was booked as against Ravinder Singh nor was he required in connection therewith the learned Sessions Judge dismissed the said application on 15.1.2004.

40. It is true that there was no whisper in the application seeking pre-arrest bail about the car episode. Normally, detailed particulars are not furnished when an anticipatory bail application is moved before the Sessions Court. But the fact remains that the higher authority, namely, SSP was informed of the illegal detention of the vehicle owned by the deceased and the intended false implication by the DSP even prior to the filing of the application seeking anticipatory bail.

41. The stubborn and adamant attitude of PW 3 and the telegram sent by him to SSP putting the entire blame on the DSP had infuriated the DSP. He had infact sent the accused SHO Kulwinder Singh alongwith other police officials to bring Ravinder Singh to the police station. PW 3, PW 4 & PW 5 have categorically deposed that all these accused Nos. 1 to 5 were present at the time when Ravinder Singh was dragged from the house and abducted and the 6th accused Gurjit Singh also was present at the time when the torture was given to the Ravinder Singh at the police station.

42. There is no reason to reject the evidence of PW 3, PW 4 and PW 5. Just because the names of accused No. 2 to 5 were not specifically referred in the first information report, they cannot be absolved of criminal liability.

43. Identification parade is conducted only for the purpose of channeling the investigation on the right track. The identification of the accused in the Court by the witnesses concerned would be relevant for the purpose of determining the involvement of the accused in the case. There was a violent action initiated by the accused-appellants No. 1 to 5 in front of the house of PW 3. PW 4 and PW 5

also were present at that point of time. PW 3 and the deceased had expected that the police would descend on their house to take away the deceased. The identity of the persons who participated in the violent action would be well remembered by the persons who witnessed such a violent action. No wonder, PW 3 to PW 5 could identify all the accused during the course of trial.

44. PW 6 Sarabjit Singh was found to be one of the injured persons in the torture given in the police station. Though he turned hostile to the case of the prosecution, the evidence of PW 2 Dr. Ramesh Sharma would go to establish that not only Sarabjit Singh, but Sandeep Singh as well came with a complaint that they were tortured by the police and that on examination some injuries were found on their person.

45. It is the evidence of PW 3 to PW 5 that Sarabjit Singh and Sandeep Singh were also tortured by the appellants. But unfortunately, SHO Kulwinder Singh had set up a plea that those two persons were not brought to the police station and they were not known to him. Accused-appellant No. 1 has come out with an utter lie to suppress the torture given not only to the deceased, but also to those two persons.

46. It is contended as though the subject vehicle was towed to the police station when it was found parked on the road. On 2.1.2004 itself, the police had visited the house of PW 3 and enquired about the vehicle. PW 3 had supplied the information as to where the vehicle was parked. Ex. P43 would show that the deceased had infact purchased the vehicle. There was no reason for the Investigating Officer to send the vehicle for checking the working condition. The vehicle allegedly found parked on the road would have been simply returned on production of Ex. P43 by the deceased. A telegram sent by the deceased on 8.1.2004 and received by the SSP on 9.1.2004 was endorsed to the DSP against whom allegation of false implication had been made by the deceased apprehending danger to his life and property. The 6th accused had a grouse as a telegram had been given by PW 3 alleging false implication by him. Further PW 3 had not budged to the demand made by the DSP to surrender the deceased. Infact, the deceased had approached the Court seeking anticipatory bail. Therefore, there is every reason for the police officials headed by the DSP to teach a lesson to the victim who did not surrender as per their command.

47. The above facts and circumstances would go to establish that the accused had come out with a totally false plea that the deceased on his own arrived at the police station for the purpose of enquiry and also to verify the discrepancy in the engine number. No sane person in the above facts and circumstances would have gone to the police station voluntarily.

48. The DDRs had been cooked up by the police officials who had been in possession of the records till Piara Singh was posted as SHO in the police station.

49. In my considered view, DW 1 and DW 2 the police officials had brought cooked-up documents only for the purpose of saving accused Chamkaur Singh

who set up a plea of alibi in the face of eye witness account. We are not prepared to give credence to the documents created for the purpose of this case by police officials. Therefore, the alibi set up by accused Chamkaur Singh stands rejected.

50. Mukhtiar Singh was the driver of the vehicle of the police station. But the evidence of PW 3 to PW 5 would go to show that he participated not only in the abduction, but also in the torture given to the deceased. He had also transported the dead body after Ravinder Singh collapsed unable to bear the torture. Therefore, accused Mukhtiar Singh cannot escape from the charges framed as against him on the ground that he was only the driver of the official vehicle.

51. Gurjit Singh was the brain behind the abduction, illegal confinement and torture leading to death. Therefore, Gurjit Singh also cannot escape from the charges framed against him on the ground that he was not present at the time of abduction. The evidence of PW 3 to PW 5 would go to show that Gurjit Singh was also present at the time when the torture was given to the deceased.

52. We find that the prosecution has established that the accused No. 1 to 5 in Crl.A. No. 517-DB of 2006 formed an unlawful assembly and used criminal force in order to abduct Ravinder Singh. They also abducted Ravinder Singh in order that he may be murdered. The accused in Crl.A. No. 492-DB of 2006 and the accused in Crl.A. No. 517-DB of 2006 wrongfully confined Ravinder Singh and tortured him. They also in prosecution to their common object committed murder of Ravinder Singh by administering electric shock.

53. Appellant Gurjit Singh was admittedly not present at the time when the crime of abduction was committed in front of the house of PW 3. Accused Gurjit Singh cannot be convicted for the offence u/s 143 and Section 364 IPC. Therefore, the conviction and sentence imposed by the trial Court as against appellant Gurjit Singh in Crl.A. No. 492-DB of 2006 for the offence u/s 143 and Section 364 IPC stands set aside.

54. It is a case of custodial death. The police personnel had authored the custodial death of Ravinder Singh. The State being the employer of those police personnel is vicariously liable for the inhuman treatment given to the victim violating his human rights and fundamental rights. The victim's family is found to be an agricultural family. PW 3 has lost his son in the police torture. He had died in his prime youth. The victim had infact sought for protection from the police authorities. But unfortunately, he had been abducted by the police personnel who posed a threat not only to his person, but also to his property. On account of the torture in the form of electric shock given to him, he had died. The unfortunate father had to cry standing outside the police station where his son was done to death. The victim who was dragged and brought to the police station was taken away in the police vehicle within 2 hours as a dead body under the very nose of his father. The family of the victim has to be adequately compensated. Therefore, we deem it necessary to direct the State of Punjab to pay compensation of Rs. 10 lacs to the parents of deceased Ravinder Singh

within 3 months from the date of this direction.

55. It is quite unfortunate that a complaint against custodial death was registered by the very same police station and the police officer who was posted in the place of the perpetrator of such a crime took up the case for investigation. The Investigating Officer in this case had embarked upon a biased investigation. One cannot expect an impartial investigation from the police officer who happened to man the police station in which the custodial death took place. Further, the matter was entrusted to the SHO to initiate investigation as against DSP as well. Therefore, we direct that the State shall entrust such custodial death cases to an independent premier investigating agency of the State or the Centre, as the case may be, in order to do complete justice to the victim as well as to the society at large.

56. Gurjit Singh, appellant in Crl.A. No. 492-DB of 2006 has admittedly jumped parole. He had served as DSP at the time when the occurrence took place. Quite unfortunately, he had not been arrested and sent to jail to undergo the remaining portion of the sentence. A person in the rank of DSP would have got strong roots in the society. It would be easy for the police sleuths to drag down such a person who had absconded using clout in the society. Surprisingly, the police sleuths are sleeping over the warrant of arrest issued as against accused Gurjit Singh, former DSP who had the audacity to jump parole violating the conditions imposed while granting parole by the authority concerned. Therefore, the Director General of Police, Punjab is directed to form a Special Team to arrest Gurjit Singh, former DSP who is the appellant in Crl.A. No. 492-DB of 2006 and send him to jail to undergo the unexpired portion of the sentence. The Special Team formed by the DGP, Punjab shall submit a status report as regards the execution of warrant of arrest as against Gurjit Singh by 5.8.2013.

57. In view of the above, the judgement of conviction and sentence passed as against the appellants in Crl.A. No. 517-DB of 2006 stands confirmed and the conviction recorded by the trial Court for the offence u/s 342 IPC and 302 IPC read with Section 149 IPC as against appellant Gurjit Singh in Crl.A. No. 492-DB of 2006 stands confirmed.

58. With the above observations, direction and modification, both the appeals stand dismissed. Appellant Mukhtiar Singh in Crl.A. No. 517-DB of 2006 is on bail. His bail bond stands cancelled. He shall surrender within one week from the date of this judgement to undergo the unexpired portion of his sentence.