

(2013) 07 P&H CK 0479

In the Punjab And Haryana At Chandigarh

Case No : Murder Reference No. 8 of 2011 and Criminal Appeal No. D-1119-DB of 2011

State of Punjab

APPELLANT

Vs

Resham Singh and Others
 Resham Singh and Another
Vs State of Punjab

RESPONDENT

Date of Decision : 29-07-2013

Acts Referred:

Arms Act, 1959 — Section 25, 27

Criminal Procedure Code, 1973 (CrPC) — Section 102, 161, 174, 313, 366

Evidence Act, 1872 — Section 27

Penal Code, 1860 (IPC) — Section 120, 120B, 148, 149, 201

Citation : (2013) 07 P&H CK 0479

Hon'ble Judges : S.S. Saron, J;S.P. Bangarh, J

Bench : Division Bench

Advocate : R.S. Cheema, Mr. Arshdeep Singh Cheema in Criminal Appeal No. D-1172-DB of 2011, Ms. Baljit Mann and Mr. A.P.S. Mann, in Criminal Appeal No. D-1119-DB of 2011, for the Appellant; R.S. Cheema, Mr. Arshdeep Singh Cheema, Advocate for Respondents Nos. 3, 4 in Murder Reference No. 8 of 2011, Ms. Baljit Mann, A.P.S. Mann, Advocates in CrI. Appeal No. D-1119-DB of 2011 for Respondents Nos. 1, 2 in Murder Reference No. 8 of 2011, Mr. S.S. Dhaliwal, Addl. AG, Punjab for the State, Mr. H.S. Gill , Mr. R.K. Dhiman and Mr. Simarjit Singh Sekhon, Advocates for the Complainant, for the Respondent

Judgement

S.S. Saron, J.—This order will dispose of Murder Reference No. 8 of 2011, Criminal Appeal No. D-1119-DB of 2011 and Criminal Appeal No. D-1172 of 2011 as they arise out of the same judgment of conviction dated 21.10.2011 and order of sentence dated 28.10.2011 passed by the learned Sessions Judge, Faridkot. Murder reference has been made by the learned Sessions Judge, Faridkot in terms of Section 366 of the Code of Criminal Procedure Code ("Cr.P.C."-for short) whereby respondents No. 1 to 4 in the murder reference who are the appellants in the two appeals have been sentenced to death. Criminal appeals have been filed by the convicts/appellants seeking setting aside of the judgment of their conviction dated 21.10.2011 and the order of their

sentence dated 28.10.2011 passed by the learned Sessions Judge, Faridkot and for their acquittal in the case.

2. FIR (Ex. PC/2) has been registered on the statement (Ex. PC) of the complainant Kuldeep Singh (PW-2). It is stated by the complainant (Kuldeep Singh PW-2) that he is a resident of village Pakhi Kalan and has passed his plus-2 examination and now he does cultivation. His elder brother Gurpreet Singh alias Gopi (deceased in the case) had performed a love marriage with Manpreet Kaur (DW-1) daughter of Labh Singh (alias Gurlabh Singh) of village Bhagthala Kalan about ten months earlier to the incident that had occurred on 20.09.2009. Gurpreet Singh alias Gopi (deceased) was residing with his wife (Manpreet Kaur-DW-1) on rent at House No. 131, Street No. 2, Guru Nanak Colony, Faridkot. Kuldeep Singh complainant (PW-2) to see the fair of Baba Farid (Mela Baba Farid) along with his maternal uncle's son namely Gurmit Singh (PW-3) son of Surjit Singh resident of Khawaja Kharak, Distt. Ferozepur had come to Faridkot on 20.09.2009. After seeking the fair, they were returning to village Pakhi Kalan. At Sadiq "Chowk" (crossing), Faridkot, Gurpreet Singh alias Gopi (deceased), who was the brother of the complainant Kuldeep Singh (PW-2), met them. He stopped them and said that they should go after having a meal with him. Then Gurpreet Singh alias Gopi started going ahead of them on his motorcycle while Kuldeep Singh, complainant (PW-2) and his maternal uncle's son (Gurmit Singh PW-3) followed him on their motorcycle. When they reached near the turning of Street No. 2 in Guru Nanak Colony, Faridkot, Gurpreet Singh alias Gopi was about 10 "karams" (about 18-20 yards) ahead of them. It would be about 7.15 pm (on 20.09.2009) at that time. Gurpreet Singh alias Gopi took a turn in the street and from the opposite direction, a white colour "Zen" car came in the street. The driver of the said car stopped the car in front of the motor cycle of the brother (Gurpreet Singh) of the complainant Kuldeep Singh (PW-3).

3. Then three clean shaven persons and a person wearing a turban got down from the car. They attacked Gurpreet Singh alias Gopi with weapons. One of them fired at Gurpreet Singh alias Gopi which hit him on his right arm near the wrist. The brother of the complainant threw his motorcycle and started running in the street behind the shops. All these persons (assailants) chased Gurpreet Singh alias Gopi while firing. After going some distance, Gurpreet Singh alias Gopi fell down. All these persons then killed the brother (Gurpreet Singh) of the complainant by firing with the weapons and inflicting "kirch" blows. The complainant Kuldeep Singh (PW-2) and Gurmeet Singh (PW-3) raised an alarm of "marta marta". Then all the aforesaid persons fled from the spot with their weapons after murdering the brother (Gurpreet Singh) of the complainant. The driver of the car drove away the car bearing registration No. PB-32-C-8231. The person wearing a turban, according to the complainant, looked like Gurmukh Singh (appellant), the elder brother of the father (Labh Singh alias Gurlabh Singh) of the complainant's brother's wife ("Taya" of Manpreet Kaur). The complainant could identify the other unknown persons when they came before him. Then the complainant and Gurmit Singh went close to Gurpreet Singh alias

Gopi and found him dead. His "Vodafone" mobile phone and purse were missing. The motive behind the occurrence was that the brother of the complainant namely Gurpreet Singh alias Gopi (deceased) and Manpreet Kaur (DW-1) had performed a love marriage and her father's elder brother (Gurmukh Singh-appellant) nursed a grudge in this regard and he had also threatened to kill; besides, Gurpreet Singh alias Gopi also had strained relations with some other boys. After leaving Gurmit Singh (PW-3) with the dead body, he (complainant) went to lodge a report of the aforesaid occurrence that Gurjant Singh, SI/SHO of Police Station City Faridkot (PW-11) met him on the way. The complainant got his statement (Ex. PC) recorded, which he heard and asked for legal action being taken. The statement (Ex. PC) was signed by Kuldeep Singh complainant (PW-2) which was attested by SI/SHO Gurjant Singh (PW-11). Police proceedings were recorded by SI/SHO Gurjant Singh to the effect that on 20.09.2009, he along with ASI Gurmail Singh, HC Amarjit Singh, HC Balwant Singh, HC Sukhmander Singh and Punjab Home Guard (PHG) Dilbagh Singh were on Government vehicle No. PB-04-L-6086 whose driver was HC Angrez Singh. They were present at Sadiq "Chowk" (crossing) in connection with patrolling. Kuldeep Singh complainant came to SI/SHO Gurjant Singh and got his aforesaid statement (Ex. PC) recorded, which after it was reduced into writing was read over to him word by word who after hearing and admitting the same to be correct signed it in English. It was attested by SI/SHO Gurjant Singh. From the statement (Ex. PC) an offence punishable under Sections 302, 148 and 149 Indian Penal Code ("IPC"-for short); besides, Sections 25 and 27 of the Arms Act, 1959 were made out. The statement with the police proceedings (Ex. PC/1) recorded below it was sent to the police station through HC Sukhmander Singh for registration of a case (FIR). After registration of the case, the case file was asked to be sent to SI/SHO Gurjant Singh. Special Report was asked to be sent to the "Illaq" (Area) Magistrate and the higher officers through Constable Sukhmander Singh. Incharge Police Control room was also asked to be separately informed. SI/SHO Gurjant Singh along with the complainant Kuldeep Singh and other police officials were proceeding to the spot. The statement of the complainant (PW-2) was recorded on 20.09.2009 at 9.30 pm at Sadiq "Chowk" (crossing), Faridkot. Case FIR No. 253 dated 20.09.2009 (Ex. PC/2) for the offences under Sections 302, 148 and 149 IPC; besides, Sections 25 and 27 of the Arms Act was registered at Police Station, City Faridkot by Kashmir Singh ASI Incharge Officer, Police Station, City Faridkot. The special report was received by the learned Additional Chief Judicial Magistrate (Duty), Faridkot on 21.09.2009 at 3.45 am.

4. SI/SHO Gurjant Singh (PW-11) along with other police officials and the complainant Kuldeep Singh went to the place of occurrence at Gali No. 2, Guru Nanak Colony, Opposite Medical College, Faridkot. He prepared inquest report (Ex. PD) of the dead body which was identified to be that of Gurpreet Singh alias Gopi. From near the dead body, he lifted separate samples of plain earth (Ex. P3) and blood stained earth (Ex. P4), which were prepared into parcels and sealed with his seal bearing impression "GS". The same were taken in possession

through separate memos Ex. PE/1 and Ex. PE. From near the dead body, SI/SHO Gurjant Singh lifted five empties of cartridges (Ex. P5/A to P5/E) of 7.65 weapon and prepared a parcel which was sealed with his seal bearing impression "GS" and was taken in possession by the police through memo (Ex. PE/2). From the place of occurrence a "Kawasaki" motor cycle (Ex. P29) bearing registration No. PB-02-AH-7930, a pair of "Hawai" chappals (Ex. P30), one key (spanner) (Ex. P31) were recovered which were taken in police possession through memo (Ex. PE/3). SI/SHO Gurjant Singh got the place of incident photographed through HC Ashok Kumar Photographer (PW-7) of the Police Department. He clicked photographs Ex. P9 to Ex. P27 with a digital camera. These were taken in police possession through memo (Ex. PN). He prepared rough site plan (Ex. PO) of the place of occurrence with correct marginal notes. He sent the dead body along with a request (Ex. PB) through HC Balwant Singh (PW-12) and HC Sukhmander Singh for getting post mortem examination conducted. Due to odd hours the post mortem examination could not be conducted on the same day. At the spot SI/SHO Gurjant Singh (PW-11) recorded the statement of Gurmit Singh (PW-3) and others wherein the accused were named by them. On return to the police station he deposited the recovered articles with MHC. On the next day (i.e. 21.09.2009) SI/SHO Gurjant Singh (PW-11) again went to the place of occurrence and after necessary formalities returned back. They conducted raids to apprehend the accused. On 21.09.2009, HC Balwant Singh (PW-12) met him and handed over the belongings of the dead body in a parcel and the same were taken in possession through memo. On 01.10.2009 HC Lakhwinder Singh handed over to SI/SHO Gurjant Singh the mobile call details of mobile number 98143-03937 belonging to accused Gurmukh Singh alias Guru which was taken in police possession. On 02.10.2009 an official from Police Station Loppo had come to Police Station Sadar, Faridkot to inform that a "Zen" car bearing registration No. PB-32-C-8231 was in the possession of the police regarding which Gurjant Singh SI/SHO did not take any action. On 04.10.2009, Gurmukh Singh and Resham Singh (appellants) were arrested and formal memos Ex. PP/1 to Ex. PP/8 were served upon them. On 05.10.2009, Gurmukh Singh and Resham Singh (appellants) were produced in Court and their police remand was sought. On 5.10.2009 Gurnaib Singh and Kulvir (sic.-Kulbir) Sharma (appellants) were also arrested in the case and formal memos Ex. PP/9 to Ex. PP/18 of arrest were served on them. On 06.10.2009 the accused (appellants) made disclosure statements Ex. PQ/1 to Ex. PQ/4 before SI/SHO Gurjant Singh (PW-11) and recoveries were got effected. A "kirch" (Ex. P32) was got recovered at the behest of Resham Singh (appellant) of which a rough sketch (Ex. PR) was prepared. The "Kirch" (Ex. P32) was put in a parcel and duly sealed with seal bearing impression "GS" and was taken in police possession through memo (Ex. PR/1). Rough site plan (Ex. PR/2) of the recovery of "kirch" (Ex. P32) was prepared. Thereafter, the accused Gurmukh Singh (appellant) led the police party to the disclosed place and from an almirah of his house in village Bhagthala got recovered a revolver (Ex. P34) of 7.65 bore along with a 12 bore double barrel gun (Ex. P33). The same were taken in possession by the police through memos

(Ex. PS and Ex. PS/1). Gurmukh Singh accused (appellant) also got recovered a "Maruti" car bearing registration No. PB-32-C-8231 which was taken in possession through memo (PS/2). This recovery had been depicted in the site plan (Ex. PR/2). Kulvir (sic.-Kulbir) Sharma accused thereafter led the police party to his house and from the box of the bed produced one hockey stick (Ex. P6) along with a gents purse containing photograph of the deceased as well as a "Vodafone" mobile phone which were taken in police possession through memo (Ex. PH). Rough site plan (Ex. PS/4) of this recovery was prepared. The statements of the witnesses were recorded and on return to the police station SI/SHO Gurjant Singh deposit the case property with the MHC. On 7.10.2009 Gurnaib Singh accused (appellant) was taken out from the lock up and as per his disclosure statement, he led the police party to village Rohrian Wali and got recovered a 7.65 pistol (Ex. P35), which was converted into a sealed parcel and duly sealed with seal bearing impression "GS". It was taken in police possession through memo (Ex. PT) along with his license. Rough site plan (Ex. PT/1) of this recovery was prepared. The statements of witnesses were recorded and on return to the police station the articles were deposited with MHC. On 01.11.2009 Gurnam Singh father of the accused Gurmukh Singh produced before SI/SHO Gurjant Singh, the registration certificate (Ex. PI) of the "Zen" car which was taken in police possession through memo (Ex. PS/3). On 02.11.2009 Balour Singh Draftsman (PW-6) produced before SI/SHO Gurjant Singh the scaled site plan (Ex. PK) of the place of occurrence. Sushil Bansal informed SI/SHO Gurjant Singh that the mobile phone recovered from Gurmukh Singh was in the name of one Kinder Singh. All the memos were attested by the witnesses and on completion of the investigation the police report (challan) was filed against the accused in the Court of learned Chief Judicial Magistrate, Faridkot on 24.12.2009. The learned Chief Judicial Magistrate after examining the report and materials on record was of the opinion that prima facie offences under Sections 302, 148 and 149 IPC; besides, Section 27 of the Arms Act were made out against the accused. The offence u/s 302 IPC was exclusively triable by the Court of Sessions. As such vide order dated 22.01.2010, the learned Chief Judicial Magistrate, Faridkot committed the case to the Court of learned Sessions Judge, Faridkot. The accused were in custody and were directed to be produced by the jail authorities in the Court of learned Sessions Judge, Faridkot on 05.02.2010.

5. The case was received by commitment by the learned Sessions Judge, Faridkot on 05.2.2010. On 19.02.2010 charges were framed against the accused on the allegations that they on 20.09.2009 at about 7.15 pm in the area of Street No. 2, Guru Nanak Colony, Faridkot they all in furtherance of their common intention intentionally committed murder or knowingly caused death of Gurpreet Singh alias Gopi and thereby they all committed an offence punishable u/s 302 IPC. Secondly on the above said date time and place they all the accused namely Gurmukh Singh, Gurnaib Singh and Kulbir Sharma knowing that an offence of murder punishable with imprisonment for life or death had been committed, caused certain evidence i.e. mobile phone and Sim cards connected

with the said offence of murder to disappear with the intention to screen themselves from legal punishment and thereby they all the above named accused committed an offence punishable u/s 201 IPC. Thirdly and lastly on the above date, time and place Gurmukh Singh had a 12 bore licensed gun and Gurnaib Singh had a 7.65 (32 bore) pistol and he misused the same for unlawful purpose i.e. to commit the murder of Gurpreet Singh alias Gopi and thereby both the accused namely Gurmukh Singh and Gurnaib Singh committed an offence punishable u/s 27 of the Arms Act. All the accused were directed to be tried by the Court of the said charges. The accused heard the contents of the charges framed against them and pleaded not guilty and claimed trial.

6. The prosecution in order to establish its case examined Dr. Shilekh Mittal Assistant Professor Department of Forensic Medicines, GGS Medical College, Faridkot (PW-1) who conducted the post mortem examination of the deceased Gurpreet Singh alias Gopi and found 35 injuries on his dead body. Besides, Kuldeep Singh (PW-2) complainant in the case and Gurmeet Singh (PW-3) an eye witness, who was accompanying the complainant Kuldeep Singh (PW-2) at the time of the incident, were examined to prove the case. Mahesh Kumar Clerk in the office of District Transport Office (PW-4) was examined. He proved that a car bearing registration No. PB-32-C-8231 was earlier owned by Murari Lal Sehgal son of Amar Nath Sehgal of Jalandhar and had been transferred in the name of Gurmukh Singh son of Gurnam Singh of village Bhagthala Kalan. The entry had been duly signed by Shri Tejinder Pal Singh Sandhu then DTO, Faridkot. He had seen the original registration certificate (Ex. PI) in Court, which was correct. Rameshwar Singh, Superintendent, Deputy Commissioner's Office, Faridkot (PW-5) was examined. He proved the issuance of an arms license of 12 bore double barrel gun in favour of Gurmukh Singh accused of village Bhagthala Kalan, Distt. Faridkot. The license was valid upto 17.12.2009 and the licensee was authorized to keep 25 cartridges of the same bore. Under the same entry of arms license authorization to keep another weapon.32 bore revolver make IOF, Kanpur had also been issued in the name of same very person authorizing him to keep 25 cartridges of the same very bore which was entered vide District Magistrate Order dated 22.06.2009 and was valid till 17.12.2009. The original arms license pertaining to the said two arms was Ex. PJ which was correct as per record. Balour Singh, Draftsman District Courts, Faridkot (PW-6) prepared the scaled site plan (Ex. PK). HC Ashok Kumar, Photographer CIA Staff, Faridkot (PW-7) proved the photographs Ex. P9 to Ex. P27 which he had clicked with a digital camera. Manoj Kumar, Arms Clerk, Office of District Magistrate, Ferozepur (PW-8) proved the arms license (Ex. P28) in respect of 12 bore DBBL gun and one.32 bore pistol having been issued in the name of Gurnaib Singh resident of Rohrian Wali, Tehsil Abohar, Distt. Ferozepur. HC Gurdit Singh MHC (PW-9) tendered in evidence his affidavit (Ex. PL) regarding he being handed over the case property i.e. one parcel of plastic "dibbi" (box) of blood stained earth, another parcel of simple earth, one parcel of empties of 7.65 sealed with seal "GS". He took out these articles from the Malkhana on 28.09.2009 along with

sample seal and were handed over through RC No. 273 dated 28.09.2009 to HC Gurdev Singh with direction that he should firstly get a docket of the same prepared from the office of SSP, Faridkot and then deposit them with the Forensic Science Laboratory. On 29.09.2009, HC Gurdev Singh reached FSL, Chandigarh and got the said parcels checked by concerned Clerk who raised objections on the said parcels. Then HC Gurdev Singh on return handed over the said parcels to HC Gurdit Singh which he deposited in the Malkhana. On 05.10.2009, HC Gurdit Singh handed over the said parcels and another parcel containing clothes of the dead body of the deceased Gurpreet Singh alias Gopi and sample seal vide RC No. 277 dated 05.10.2009 to Gurdev Singh who deposited the said parcels with FSL, Chandigarh. On his return on 06.10.2009 he produced before HC Gurdit Singh the receipt obtained by him which HC Gurdit Singh placed on record. On 07.10.2009, SHO/SI Gurjant Singh handed over to HC Gurdit Singh one 12 bore gun and then on 07.10.2009 he handed over one 7.65 pistol as case property which he deposited in the Malkhana. On 29.10.2009, HC Gurdit Singh took out from the Malkhana one 7.65 pistol and another parcel of 7.65 pistol and another parcel of 12 bore gun sealed with seal "GS" and also sample seal. These were handed over to HC Gurdev Singh vide RC No. 296 dated 29.10.2009 with the direction that a docket be got issued from the office of SSP, Faridkot and then to deposit the parcel with FSL, Chandigarh. Objections were raised on the said parcels then HC Gurdev Singh handed them over to HC Gurdit Singh on 30.10.2009 which he deposited in the Malkhanna. The objections were removed and on 09.11.2009, HC Gurdit Singh handed over the same parcel to HC Gurdev Singh vide RC No. 305 dated 09.11.2009. He deposited the said parcel with FSL, Chandigarh and on return handed over the receipt to HC Gurdit Singh which he put on the record. So long as the case property remained with him HC Gurdit Singh, he did not tamper with the same nor did he let anyone else tamper with it. HC Gurdev Singh (PW-10) deposed his affidavit (Ex. PM) regarding taking of the case property from HC Gurdit Singh MHC (PW-9) and depositing it with the FSL, Chandigarh. In cross-examination he stated that he was not aware as to what were the objections raised by the Laboratory. SI/SHO Gurjant Singh (PW-11) deposed regarding the investigation conducted by them. ASI Balwant Singh (then Head Constable) (PW-12) was examined. He was member of the police party headed by SI/SHO Gurjant Singh (PW-11) and was present at Sadiq Chowk, Faridkot when complainant Kuldeep Singh on 20.09.2009 at about 8.30 pm came and made his statement (Ex. PC) which was reduced into writing. On the basis of his statement, FIR (EX. PC/2) was recorded by ASI Kashmir Singh whose signatures he identified. Then he went along with SI/SHO Gurjant Singh (PW-11) to the place of occurrence and was part of the investigations that were conducted. FSL report Ex. PO and other documents were tendered in evidence and the prosecution evidence was closed.

7. Statements of the accused in terms of Section 313 Cr.P.C. were recorded.

8. Gurmukh Singh accused (appellant) in his statement stated that he was innocent and had been falsely implicated in the present case. He was separate in

mess and cultivation from his brother Gurlabh Singh (alias Labh Singh-father of Manpreet Kaur) since long. He had cordial relations with the deceased. He was never against the marriage of Gurpreet Singh alias Gopi (deceased) with Manpreet Kaur and the family of the deceased was living peacefully after marriage and he had never threatened him. He never made any disclosure statement nor had anything been recovered from him. He had been falsely implicated in this case due to misguided suspicion. All the prosecution witnesses were made up. The deceased (Gurpreet Singh) had been disinherited by his father. He had asked father of the deceased to give him share in the property. That is why they had involved him in the case. His licensed weapon was taken from his house and planted on him.

9. Gurnaib Singh (appellant) in his defence stated that he was innocent. He was generally called by the name of Nasib Singh and also Gurnaib Singh. His pistol was taken by the police from his house and the police fired from his pistol and planted the empty cartridges in order to make a case against him.

10. Resham Singh (appellant) stated that he was innocent and had been joined in the investigation on 25.09.2009 regarding the death of Gurpreet Singh alias Gopi. The police had inquired from him (Resham Singh) about the enmity of Gurpreet Singh alias Gopi (deceased) with gangsters as he was a friend of the deceased and was later on was falsely implicated in this case under misguided suspicion. He never made any disclosure statement nor had any weapon been recovered from him. False recoveries had been planted upon him. He along with deceased used to attend the parties and there were certain photographs of him with the deceased.

11. Kulbir Sharma (appellant) stated that he was innocent and had been falsely implicated in the case due to misguided suspicion. He had never made any disclosure statement nor had any weapon been recovered from him. False recoveries were planted on him by the police.

12. In defence Manpreet Kaur (DW(DW-1) wife of Gurpreet Singh @ Gopi (deceased) was examined. She stated that her father Labh Singh (alias Gurlabh Singh) had a brother whose name is Gurmukh Singh (appellant) who was accused in the case. Her father and her father's elder brother (Taya-Gurmukh Singh) (appellant) had separate dwelling units as well as separate agricultural activities since childhood. Her father and Gurmukh Singh (appellant) had developed small differences over distribution of land between them. She was a student of Guru Nanak Girls College, Model Town, Ludhiana. About 2 years and 9 months earlier to her deposition which was made on 1.10.2011 she had entered into marriage with deceased Gurpreet Singh which was a love marriage. Their families were known to each other as her grandfather Gurnam Singh had arranged the marriage of Gurditta Singh-father of deceased Gurpreet Singh and he (Gurnam Singh) was the go between to the said marriage. She had cordial relations with her parents and family of her father's elder brother (Taya-Gurmukh Singh) and none of them had any objections to her marriage with

Gurpreet Singh. Five/six months after her marriage, she remained at village Pakhi Kalan where the house of her in-laws was situated. Her parents used to visit her at her matrimonial home in Pakhi Kalan. She and her husband used to visit the house of her parents during this period. Name of her husband was Gurpreet Singh and he was also known as Gopi. He had demanded his share of the property from his parents as he was earlier disowned by his family. On account of this, differences had developed between her husband and his parents. Thereafter, they shifted to rented premises at Guru Nanak Colony, Faridkot. They had shifted about three/four months prior to the death of her husband i.e. prior to 20.9.2009. Her father's elder brother (Taya-Gurmukh Singh) and her father had intervened and had tried to impress upon the family of her husband to give his legitimate share so that they were able to sustain themselves. Her in-laws did not give them any allowance. It is voluntarily stated that they were not even aware as to where they were living in Faridkot and they had never come to pay them a visit. Her parents used to bear the expenses of their living. She and her husband had planned to migrate abroad as her husband had many enmities and feared threat to his life. Her husband had told her that he had a long standing feud with a group known as "pehalwana wala" group. This was objected to being hearsay. The objection was kept open to be decided at the time of final arguments. They had gone to the extent of killing her husband Gurpreet Singh. Her husband already had a passport and he had applied for her passport. Her parents had got her name struck off from their ration card. A new ration card of herself and her husband was got prepared. She had also attached her ration card with her passport application. On 20.9.2009, it is stated by Manpreet Kaur (DW-1) that her husband had left the house at around 7.00 p.m. for purchasing articles from the market. She was on the roof of the rented premises when she heard shrieks of her husband. She ran down stairs and the police had come and the police informed her that she should inform her parents as well as her in-laws. At that time, she and her husband had mobile connection No. 99151-65940 from which she intimated her parents and on their asking she also telephoned and informed her in-laws. When she had gone, she had seen her husband had died lying on the ground spattered with blood. Her parents arrived at the place after half an hour. Kuldeep Singh (PW-2) brother of her husband and others from village Pakhi Kalan came around 9.00/10.00 p.m. The police had taken her mobile phone and snaps of her husband. Manpreet Kaur (DW-1) was cross-examined by the prosecution at considerable length. In cross-examination she stated that her marriage was a Court marriage which was performed at Delhi. It most probably took place on 6.11.2008. Her parents were not present at the time of Court marriage at Delhi. She was not aware of the date, month and year when Gurpreet Singh was disowned by his parents. She voluntarily, however, stated that whenever her husband had a fight with his father, the latter used to remark that he had disowned him. Her father owns 15 acres of land. Gurpreet Singh must be owing 10-12 acres of land. When she lived at village Pakhi Kalan after marriage they used to reside with the parents of her husband. Since, she was not having cordial relations with her in-laws so she did not remember their

telephone number/mobile number. She voluntarily stated that the number had been fed in the mobile phone. Since she was under shock as she used to be given injections/tranquilizers. She did not move any application to the police to explain the circumstances under which her husband was killed. She voluntarily stated that whatever she had stated in Court on the date of her deposition was stated by her before the police as well as relatives. The place where Gopi was killed must be at a distance of two minutes by foot from their rented premises. She had not moved any application to the SSP that they feared for their life. She did not know if her father had lodged any FIR against her husband, father-in-law and her mother-in-law. She voluntarily stated that she was only aware that her father had lodged a report that she was missing. It was correct that her father-in-law Gurdit Singh, her mother-in-law Jaswinder Kaur, sister of her mother-in-law Jaswinder Kaur and husband Gurpreet Singh were arrested by the Police. She voluntarily stated that she came to know of it later. She had never approached the High Court for seeking protection for herself and her husband. She voluntarily stated that when she came to know that her in-laws had been arrested, she and her parents appeared and made statements that these persons were not at fault. She did not know if her husband and in-laws were arrested because of the complaint of her father that they had been instrumental in taking away his daughter. She was not aware if her husband had filed any petition in the High Court for protection. It is voluntarily stated that had it been so then they would have certainly got police protection. It was incorrect that she and her husband had approached the High Court for protection which was provided to them by the High Court. The High Court had also quashed the FIR against her in-laws. After the death of her husband, she was treated at Baath Hospital, Mudki and at that time her parents were with her. Since she was under shock she was not aware when she was taken to the Hospital. On seeing the dead body of her husband due to shock she became mum and that was the reason that she was taken to Hospital. It was incorrect to suggest that she had set up a false plea that she had become unconscious or that she was medically treated. Guru Gobind Singh Medical College, Faridkot, it is stated, is nearby to the place of occurrence where her husband was murdered. She knew Resham Singh (appellant) present in Court on the day of her deposition in Court. It is stated that he is the brother of the wife of her father's elder brother (Taya Gurmukh Singh). She did not know Gurnaib Singh accused (appellant). Her grandfather was Gurnam Singh and name of his father was Sohan Singh. Gurnam Singh had a brother named Balbir Singh. She did not know if Balbir Singh had a son named Karamjit Singh. It is voluntarily stated that since they reside in Haryana so she was unaware about it. It was incorrect to suggest that she was intentionally suppressing and wrongly stating that they were residing in Haryana. She did not know if accused Gurnaib Singh (appellant) was the grandson of Balbir Singh. As aforesaid that they were not on visiting terms. The latter portion regarding being on visiting terms is voluntarily stated. She did not know Kulbir Sharma (appellant) and she did not know if he belonged to their village or not. She could not say if he was the friend of accused Gurmukh Singh (appellant) or not. It was

incorrect to suggest that she was intentionally suppressing the truth. She had received the passport only after the death of her husband. She did not remember the name of the landlord of the house but the name of his son who resided on the ground floor was Rakesh Kumar. She had deposited Rs. 40,000/- given to her by her parents in her joint account with her husband in the Axis Bank. It is voluntarily stated that her in-laws had retained the ATM and had taken out the money from the same. It is stated as incorrect that her plea regarding the bank and withdrawal of money was a false one. It is stated as incorrect to suggest that ATM cannot be operated by any outsider as it is operated by a secret code number. When Manpreet Kaur arrived near the dead body, the police had already reached. It was incorrect to suggest that she was never in possession of any mobile phone and that the mobile phone was in the possession of her husband at the time of occurrence. Till the arrival of her parents their landlady was taking care of her and she was in a dazed state. It was incorrect to suggest that parents of Gurpreet Singh used to look after them and provide monetary support to them. From the day of occurrence till "Bhog" ceremony of her husband after she came out of the hospital, she resided in the house of her in-laws. After the "Bhog" Ceremony, she had started living with her parents. It was incorrect to suggest that she had deposed falsely to help the accused in this case. It was incorrect to suggest that since her parents were not happy of her marriage with Gurpreet Singh they had taken revenge and killed her husband. She had not intentionally suppressed the true facts nor had deposed falsely.

13. Sukhmander Singh, Head Constable (DW-2) was examined. He brought the summoned "Roznamcha" maintained by the Police Post Loppo, Police Station Badhni Kalan, District Moga. He proved entry of DDR No. 17 dated 29.9.2009 (Ex. DF). The said DDR entry (Ex. DF) is regarding a white colour "Zen" car with registration No. PB-32C 8231 without engine or chassis number being damaged had been impounded u/s 102 CrPC. From the car two empty cartridges of 12 bore were recovered. He was cross examined by the learned Public Prosecutor and his cross-examination was deferred and he was asked to bring the "Roznamcha" relating to the month of September 2009 and register No. 19 of the year 2009 of Police Station Badhni Kalan. In his further cross-examination it is stated as correct that as per DDR No. 18 dated 30.9.2009 at 5.15 p.m., a car and two empties had been deposited at that time by ASI Gurjinderpal Singh of Police Post Loppo with the Police Station Badhni Kalan. It is stated as correct that Photostat copy of the entry was Ex. PZ/3. It is voluntarily stated that though the "Roznamcha" entry was continuing from 29.9.2009 but inadvertently the MHC had wrongly given the date as 30.9.2009. It is stated as correct that the same had never been rectified by any official till the date. It is voluntarily stated that he had come to know of it only on the date of his deposition i.e. on 14.10.2011 at 8.00 a.m. at the Police Station Badhni Kalan. He came to know the mistake when he took the "Roznamcha" from the Munshi. He did not make any entry to this effect in the Police Station or gave anything in writing that such a default had been committed. It is stated as correct that DDR No. 5 onwards till DDR No.

19 of the "Roznamcha" register of the Police Station the entries are dated 30.9.2009. It is stated as correct that as per register No. 19 entry at serial No. 642 regarding deposit of these articles also depict the date as 30.9.2009. It is stated as correct that this entry had never been countersigned by any officer of the Police Station nor any further proceedings had been shown against this point. As per the record brought by him, there were no proceedings to verify the antecedents of the vehicle No. PB-32C 8231. It was stated as incorrect to suggest that the police in connivance with the accused had subsequently at a belated stage prepared forged entries to advance the case of the accused or that he had deposed falsely. The "Roznamcha" register brought by him had since been closed on 7.10.2009 and it neither carried any page number or any certificate of the officer concerned to show its authenticity and so was his reply to the "Roznamcha" register of Police Post Loppo which had not been closed till date inspite of the fact that there was no entry after 17.12.2009 and had not closed by any order made thereon. It was incorrect to suggest that he had deposed falsely.

14. The learned Sessions Judge, Faridkot after considering the evidence and material on record convicted the appellants for the offence punishable u/s 302 IPC. Besides, Gurmukh Singh @ Gura and Gurnaib Singh were convicted for the offence punishable u/s 27 of the Arms Act as well. All the appellants were sentenced to death for the offence u/s 302 IPC. Besides, the appellants Gurmukh Singh @ Gura and Gurnaib Singh were also sentenced to undergo rigorous imprisonment for three years, besides, pay a fine of Rs. 2000/- and in default thereof, to undergo rigorous imprisonment for three months for the offence u/s 27 of the Arms Act. Aggrieved against the same, the appellants in the respective appeals have prayed for setting aside the judgment and order of the learned trial Court and acquitting them of the offences attributed to them. Besides, a reference has been made in terms of Section 366 CrPC for confirmation of the death sentence.

15. Mr. R.S. Cheema, Senior Advocate with Mr. Arshdeep Singh Cheema, Advocate for the appellants Gurmukh Singh @ Gura and Gurnaib Singh in CRA No. D-1172-DB of 2011 has contended that a reading of the FIR (Ex. PC/2) shows that in fact it is a blind murder and the name of Gurmukh Singh @ Gura (appellant) has been inserted in a speculative manner so as to implicate him and at the same time leave room for implicating others with whom it was stated that the deceased Gurpreet Singh @ Gopi had enmity, that is, in case the involvement of Gurmukh Singh @ Gura (appellant) is not there. In fact the identity of Gurmukh Singh @ Gura (appellant) is not established and consequently all the appellants have been falsely implicated. This, it is submitted, is more so for the reason that in the inquest report (Ex. PB) it is recorded that the crime had been committed by some unidentified persons and the statements of both the eye-witnesses were recorded in which Kuldeep Singh, complainant (PW-2) has stated that Gurpreet Singh @ Gopi (deceased) had been murdered by some persons. Even Gurmeet Singh (PW-3) in his statement (Ex. DC) in the inquest report

states that some persons had murdered Gurpreet Singh @ Gopi by firing at him. Therefore, in the initial version, it is submitted that no names of the accused were mentioned and subsequently in the FIR, the name of Gurmukh Singh @ Gura (appellant) was mentioned. The FIR in fact was recorded after completing the inquest proceedings in tune with the injuries found on the dead body of deceased Gurpreet Singh @ Gopi. It is submitted that in fact the complainant Kuldeep Singh (PW-2) and the alleged eye-witness Gurmeet Singh (PW-3) were not present at the time of occurrence and they were called later on for recording the FIR. The said two witnesses are closely related and they were brought there and introduced to implicate the appellants. In any case they were chance witnesses and therefore, no reliance can be placed on their testimonies. It is also submitted that there is no motive for the appellants to commit the murder of Gurpreet Singh @ Gopi. In fact the alleged motive of the deceased marrying the niece of Gurmukh Singh @ Gura (appellant) cannot be a motive for committing the murder as no grievance was shown in respect of the marriage and both the sides were of the same caste and were equal in status, besides, had somewhat same land holdings. The recovery of weapons has been foisted and the recoveries are liable to be disbelieved. The other discrepancies that have been pointed out by the learned Senior Counsel are to the effect that there is variance in the timing of the occurrence given by Kuldeep Singh (PW-2) and Gurmeet Singh (PW-3) inasmuch as the former says that the incident occurred at 7.00 p.m. while the latter says that it had occurred at 6.30 p.m. Besides, Kuldeep Singh (PW-2) states that his statement was recorded at Sadiq "Chowk" which is 50 yards from the place of occurrence at 9.30 p.m. while the FIR is recorded at 9.40 p.m. and the special report was received by the Ilaqa Magistrate at 3.45 a.m. on the next day of the occurrence i.e. 21.9.2009. Therefore, a delay in registration of the FIR, it is submitted, goes to show that deliberations and consultations were carried out and when nothing could be found, a speculative FIR alleging that one of the accused wearing a turban appeared like Gurmukh Singh @ Gura (appellant) was put in the FIR. As the special report was received by the Magistrate at 3.45 a.m. on 21.09.2009, it is submitted that the FIR in fact was given its final shape at about 3.00 a.m. on 21.9.2009. It is further submitted that the police had reached the place of occurrence and started their investigations much earlier to the registration of the case. A reference has been made to the cross-examination of HC Ashok Kumar, photographer who states that he had gone to the spot at around 8/8.30 p.m. It is submitted that the incident occurred in a thickly populated area. The police was present in routine at the Sadiq Chowk near the local Medical College and the main gate of the local Medical College was closed. Therefore, the police must have come to know of the incident within no time. Besides, it is proved from the statement of the Investigating Officer SI/SHO Gurjant Singh (PW-11) that senior officers including the DSP was present at the spot shortly after the occurrence and he had also seen the photographs. It is also submitted that there are other discrepancies inasmuch as SI/SHO Gurjant Singh, the Investigating Officer (PW-11) states that in DDR No. 33 dated 20.9.2009 it is not mentioned that one person looked like

Gurmukh Singh @ Gura (appellant). Moreover, SI/SHO Gurjant Singh, Investigating Officer (PW-11) had gone to village Sarawan on 25.09.2009 in search of Gurmukh Singh @ Gura (appellant). He went to the house of Resham Singh (appellant) searching for Gurmukh Singh but despite the fact that Resham Singh was also an accused, he did not arrest him. Therefore, it is submitted that upto 25.9.2009, the names of accused other than the person who is stated to be looking like Gurmukh Singh @ Gura were not known to the police. The number of assailants that are mentioned in the FIR is five and four of them are stated to be clean shaven young persons while the fifth person was wearing a turban that was said to resemble Gurmukh Singh @ Gura (appellant). However, four persons have been prosecuted and it is not stated or even mentioned as to who the fifth person was, which creates a serious doubt in the prosecution case. Therefore, the investigation that was conducted, it is submitted, was unfair and discrepant. It is also submitted that there was no motive for the appellants to commit the murder of Gurpreet Singh @ Gopi and the alleged motive of his marriage with Manpreet Kaur (DW-1) is not tenable as both the families belong to the same caste and community and they have almost similar land holdings. Therefore, the appellants would have no grouse for the marriage of Manpreet Kaur with Gurpreet Singh @ Gopi. In any case it is submitted even if the appellants are not to be acquitted the present is not a case for imposition of death sentence as the case does not fall within the category of rarest of rare cases.

16. Ms. Baljit Mann, Advocate and Mr. A.P.S. Mann, Advocate for the appellants Resham Singh and Kulbir Sharma (appellants in CRA No. D-1119-DB of 2011) reiterates the arguments urged by the learned Senior Counsel appearing for the appellants Gurmukh Singh @ Gura and Gurnaib Singh. She further submits that in fact there is no motive for the appellants Resham Singh and Kulbir Sharma whatsoever to commit the murder of Gurpreet Singh @ Gopi. Kulbir Sharma is a resident of village Bhagthala Kalan which is the village of Gurmukh Singh @ Gura but he has nothing to do with the family of Gurmukh Singh @ Gura. Besides, Resham Singh is a resident of village Sarawan and he has been implicated only because he is a relative of Gurmukh Singh. It is submitted that Kuldeep Singh (PW-2) in his statement (Ex. PC) states that there were five accused and in Court he states that there were four accused. Besides, in his statement (Ex. PC), he says that the assailants were carrying fire arms and a "kirch" while in Court he states that Kulbir Sharma was carrying a hockey stick (Ex. P6). It is submitted that the hockey stick (Ex. P6) has been introduced only to explain the lacerated wound which was observed on the dead body of Gurpreet Singh @ Gopi. It is submitted that Kuldeep Singh (PW-2) in his statement (Ex. PC) states that immediately after the incident, he went to the Police Station to lodge a report after leaving Gurmeet Singh (PW-3) at the spot while in Court he says that after the incident, out of fear, he went to his home and informed his parents and thereafter, he came and made a statement before the police. This is evidently to explain the delay. It is also submitted that while in statement (Ex. PC) Kuldeep Singh (PW-2) states that he left Gurmeet Singh (PW-3) to guard the dead body

but in Court he states that Gurmeet Singh (PW-3) had disappeared from the spot. It is also submitted that there are no injuries on the person of complainant Kuldeep Singh (PW-2) and Gurmeet Singh (PW-3) which goes to show that they were not present at the spot and it had taken eight hours to call him and the FIR was recorded after deliberations at about 3.00 p.m. on 21.09.2009 as the special report reached the Magistrate at 3.45 a.m. on 21.09.2009. Gurmeet Singh (PW-3) is the maternal uncle's son of Gurpreet Singh @ Gopi (deceased) and of complainant Kuldeep Singh (PW-2). He is a resident of village Khwaja Kharag, District Ferozepur which is at a distance of 7-8 kilometers from the place of occurrence. The incident had occurred at Gali No. 2 Guru Nanak Mohalla, Faridkot while Gurmukh Singh and Kulbir Sharma (appellants) belong to village Bhagtla Kalan. Resham Singh (appellant) belongs to village Sarawan and Gurmail Singh (appellant) belongs to village Rurhian Wali thus belonging to different villages. It is submitted that Kulbir Sharma (appellant) was introduced for the first time vide statement (Ex. DA) of Gurmeet Singh (PW-3). Besides, it is submitted that the statement of Gurmeet Singh (PW-3) was recorded by the police after post-mortem examination of the dead body of Gurpreet Singh @ Gopi and as an abrasion was found on his head, therefore, a hockey stick (Ex. P6) blow has been attributed to Kulbir Sharma.

17. In response Mr. S.S. Dhaliwal, Addl. A.G., Punjab for the State and Mr. H.S. Gill, Senior Advocate with Mr. R.K. Dhiman, Advocate and Mr. Simranjit Singh, Advocate for the complainant have submitted that there is clinching evidence from the deposition of Kuldeep Singh (PW-2) and Gurmeet Singh (PW-3) that the murder had been committed by the appellants as they had been stalking the deceased. They way laid him and ambushed him. It is submitted that the first gunshot injured the deceased and he fell down. While he tried to run for his life, he was chased for about 40-50 karams and while he was being chased, he was shot at by Gurnaib Singh who was armed with a pistol. When Gurpreet Singh @ Gopi fell down on the second time, he was encircled by the accused and everyone caused injuries to him with their respective weapons from close range. The deceased was empty handed and there was no provocation. It was a merciless murder which sent shock waves throughout the area. The incident had occurred in the heart of the city close to Guru Gobind Singh Medical College and University of Health Sciences and behind the Medical shops on 20.9.2009 at about 6.30-7.15 p.m. It had occurred on the auspicious day of Mela Baba Farid at Faridkot in Lane No. 2 Faridkot. It is submitted that the eye witnesses are consistent in their deposition and minor discrepancies are not liable to come in the way for holding the appellants guilty. It is submitted that car No. PB 32C 8231 which is owned by Gurmukh Singh and was recovered on the basis of disclosure statement (Ex. PQ/2) of Gurmukh Singh vide recovery memo (Ex. PS/2) was mentioned in the FIR. However, there was an attempt on the part of Gurmukh Singh to mislead the police. He planted a white Maruti car by effacing the engine number and chassis number and placed fired cartridges in it so that the police recovers the car and sends the fired cartridges to the FSL which would

not match with the guns used by them. However, the vehicle recovered subsequent to the disclosure statement of Gurmukh Singh clearly depicts the engine number and chassis number and it is established to be owned by Gurmukh Singh (appellant) from the deposition of Mahesh Kumar, Clerk of DTO Officer, Muktsar (PW-4). It is submitted that the eye-witnesses Kuldeep Singh (PW-2) and Gurmeet Singh (PW-3) were not chance witnesses as they had come to see the Mela of Baba Farid at Faridkot which is a well-known fair in the area and people generally gather there. The witnesses Kuldeep Singh (PW-2) and Gurmeet Singh (PW-3) had met the victim Gurpreet Singh @ Gopi. On the invitation of the victim to his cousins to have meals with him, they were going to the house of Gurpreet Singh @ Gopi (deceased) at Guru Nanak Colony Faridkot when the incident had occurred. The motive for the murder was that niece of Gurmukh Singh @ Gopi namely Manpreet Kaur (DW-1) had eloped with Gurpreet Singh (deceased) on 4.11.2008. In this regard, FIR No. 200 dated 14.11.2008 (Ex. PG) for the offences under Sections 363-A, 366-A and 120-B IPC was lodged by Labh Singh, father of DW-1 Manpreet Kaur. The run away couple had solemnized their marriage at Delhi where none of the family members of Manpreet Kaur (DW-1) attended it. They stayed there for 15 days. They also sought protection for themselves from the Court. On the pretext of amicable settlement Gurpreet Singh, his father Gurditta, mother Jaswinder Kaur and mother's sister Charanjit Kaur were arrested from the Gurudwara Singh Sabha, Faridkot. The arrested persons filed a petition in the High Court for quashing the FIR (Ex. PG) in which Manpreet Kaur (DW-1) was also a party. Therefore, the murder took place as a result of "honour killing" to take revenge for the insult suffered by Gurmukh Singh (appellant). It is submitted that the accused had not been falsely implicated. Had the accused been falsely implicated on suspicion, Labh Singh, father of Manpreet Kaur (DW-1) would have also been implicated. The imposition of death sentence in the facts and circumstances, it is submitted, is in consonance with the gravity of the heinous crime.

18. We have given our thoughtful considerations to the contentions raised by learned Counsel for the parties and with their assistance gone through the records of the case. The prosecution case is based on the statement and deposition of the complainant Kuldeep Singh (PW-2) who is the younger brother of the deceased Gurpreet Singh @ Gopi. About 10 months earlier to the incident that occurred on 20.9.2009, Gurpreet Singh @ Gopi solemnized his marriage with Manpreet Kaur (DW-1) daughter of Gurlabh Singh (alias Labh Singh). This was a love marriage between the two. Gurmukh Singh (appellant) is the father's elder brother (Taya) of Manpreet Kaur (DW-1). The family of Manpreet Kaur was upset with the marriage. Gurmukh Singh (appellant) held out threats to Gurpreet Singh @ Gopi. The marriage between Gurpreet Singh @ Gopi and Manpreet Kaur (DW-1) was a love marriage which is also accepted by Manpreet Kaur (DW-1) in her deposition. It was a Court marriage which was solemnized at Delhi. The couple stayed there for 15 days at that time. The marriage according to Manpreet Kaur had probably taken place on 06.11.2008. The parents of

Manpreet Kaur (DW-1) were not present at that time. After marriage, the couple lived together at village Pakhi Kalan for 5-6 months which was the house of Gurpreet Singh @ Gopi (deceased). According to Manpreet Kaur (DW-1) due to differences that developed between her husband and the parents of her husband, they shifted to rented premises in Guru Nanak Colony, Faridkot. They shifted there about 3-4 months earlier to the incident that occurred on 20.9.2009. On the date of the incident i.e. on 20.9.2009, there was a fair of Baba Farid (Mela Baba Farid) at Faridkot for which the complainant Kuldeep Singh (PW-2) had come along with his maternal uncle's son Gurmeet Singh (PW-3). After attending the fair, they were returning to village Pakhi Kalan. At Sadiq Chowk, they met Gurpreet Singh @ Gopi (deceased), brother of the complainant. He stopped them and said that they should go after having a meal with him. Then Gurpreet Singh @ Gopi started going ahead on his motorcycle while Kuldeep Singh (PW-2) and his maternal uncle's son Gurmeet Singh (PW-3) followed him on the motorcycle. When they reached near the turning of Street No. 2 Guru Nanak Colony in Faridkot, Gurpreet Singh @ Gopi was about 10 karams ahead of them and it would be about 7.15 p.m. that from the opposite direction a white colour "Zen" car came in the street. The driver of that car stopped the car in front of the motorcycle of Gurpreet Singh @ Gopi (deceased). Four clean shaven young boys and one turbaned person got down from the car. They attacked Gurpreet Singh @ Gopi with their weapons. Out of them, one fired at Gurpreet Singh @ Gopi and the bullet hit him on his right arm near the chest. The brother of the complainant threw the motorcycle and started running in the street behind the shops. All the assailants chased him while firing at him. After covering some distance, Gurpreet Singh @ Gopi fell down. All the assailants then killed Gurpreet Singh @ Gopi by firing with their weapons and inflicting "Kirch" blows. Kuldeep Singh (PW-2) and Gurmeet Singh (PW-3) raised an alarm. Then all the said persons fled from the spot along with their respective weapons. The car had registration number PB 32C 8231. The person wearing a turban looked like Gurmukh Singh @ Gurra (appellant), the elder brother of the father of Manpreet Kaur (DW-1). The complainant could identify the other unknown persons on their coming before him. Kuldeep Singh (PW-2) and Gurmeet Singh (PW-3) went near Gurpreet Singh @ Gopi and found him dead. His Vodafone mobile phone and purse were missing. The motive for the occurrence was that Gurpreet Singh and Manpreet Kaur (DW-1) had solemnized a love marriage amongst themselves with their mutual consent and her father's elder brother (Taya) had nursed a grudge and he had also threatened to kill. Besides, Gurpreet Singh @ Gopi also had strained relations with other boys. Kuldeep Singh (PW-2) after leaving Gurmeet Singh (PW-3) near the dead body was coming to the Police Station to lodge a report that the police party met him on the way and he got his statement recorded, which was recorded by SI/SHO Gurjant Singh (PW-11) and investigations were carried out. During the investigations, Gurmukh Singh @ Gura (appellant) was arrested on 4.10.2009 and a 12 bore double barrel gun (Ex. P33) and a 7.6 mm revolver (Ex. P34) were got recovered. He made a disclosure statement (Ex. PQ/2) on 4.10.2009 stating that he had concealed one 12 bore rifle and its

license below his clothes in the wooden cupboard in the residential room of his house, besides, had concealed a white "Zen" car No. PB 32 C- 8231 in a room meant for storing wheat chaff. He had also kept mobile phone in a wooden almirah in a concealed manner. His disclosure statement u/s 27 of the Evidence Act was recorded which was attested by the witnesses. In pursuance of recovery memo (Ex. PS/1), Gurmukh Singh (Appellant) on his pointing out, opened the lock of the almirah and got recovered one 12 bore double barrel gun. On opening, it was checked and it appeared that a shot had been fired from it. He also produced one license dated 17.12.1990 in his name which was valid upto 17.12.2009. The license was of a revolver. Parcel of rifle 12 bore had been prepared and sealed by SI/SHO Gurjant Singh (PW-11) with his seal "GS" which was attested by the witnesses. In pursuance of recovery memo (Ex. PS/2) Gurmukh Singh got recovered a white Maruti "Zen" car No. PB 32-C 8231 which was parked in a concealed manner in a room meant for keeping wheat chaff. The steering lock of the car was broken. It did not have a spare wheel nor was there any deck in it. On opening the car, no registration certificate was found. The chassis number and engine number of the car were noted and the car was taken in police possession in pursuance of memo prepared by SI/SHO Gurjant Singh (PW-11) and signed by the witnesses. In terms of recovery memo (Ex. PS/3) Gurmukh Singh produced before SI/SHO Gurjant Singh (PW-11) registration certificate of Zen Maruti car No. PB32C 8231. The car in the registration certificate was recorded in the name of Jugbadal Singh. The registration certificate was taken in possession. In terms of recovery memo (Ex. PS) Gurmukh Singh (appellant) produced before SI/SHO Gurjant Singh (PW-11) from his wooden cupboard, one revolver 32 bore sold by Field Gun Factory Kanpur in 2009. It was opened and checked and it was noticed that it had been cleaned. The revolver number was noted. It was registered in the name of Gurmukh Singh (appellant). Separate parcel of the revolver had been prepared and sealed with seal "GS" by SI/SHO Gurjant Singh (PW-11).

19. Gurnaib Singh (appellant) is a resident of village Rurhian Wali, Police Station Khuhi Khera, Abohar, District Ferozepur. He made a disclosure statement (Ex. PQ/4) regarding concealing his pistol.32 bore/7.65 mm bore along with its license under the clothes lying in the almirah in the residential room of his house which was locked. Its key had been concealed in the house and only he knew about the same and could get the same recovered by pointing it out. His disclosure statement was recorded by SI/SHO Gurjant Singh (PW-11). In consequence of the disclosure statement, Gurnaib Singh vide recovery memo Ex. PT got recovered 7.65 mm (.32") pistol of the Indian Ordnance Factory and also produced before SI/SHO Gurjant Singh (PW-11) an empty magazine. It was opened and checked. It appeared that shots had been fired with the pistol. A license was also produced by the appellant Gurnaib Singh. On the license, number of the pistol was written. A separate sketch of the pistol was prepared. Separate parcel of pistol was prepared and it was sealed with seal "GS" by SI/SHO Gurjant Singh (PW-11).

20. Resham Singh (appellant) made a disclosure statement (Ex. PQ/1) regarding concealing his "Kirch" at village Bhagthala Kalan in the corner of the cattle shed by digging out a pit in the house of Gurmukh Singh. Only he knew about it. Besides, his mobile phone was put in a glazed paper and concealed in a residential room and only he knew about it. He could get the same discovered by pointing them out. His disclosure statement (Ex. PQ/1) was recorded which was attested by the witnesses. In consequence of the disclosure statement, Resham Singh vide recovery memo Ex. PR/1 got recovered one iron "kirch" by digging out a pit and removing earth with his own hands from the cattle shed in the corner of the residential house of Gurmukh Singh (appellant). The length of the "kirch" was 10 fingers with an iron handle like a pipe of 5 fingers having a cross hold fitted with one long piece of iron ("pattri") of about 2 fingers welded and attached with the iron handle. Its sketch was drawn separately and converted into a parcel and was taken in possession through memo Ex. PR/1 by SI/SHO Gurjant Singh (PW-11) and was attested by the witnesses.

21. Kulbir Sharma (appellant) made a disclosure statement (Ex. PQ/3) regarding concealing his hockey stick, one Vodafone mobile phone and a black leather purse of Gurpreet Singh @ Gopi in a box bed lying in the residential room of his house under the clothes about which he only knew. He could get the same recovered after pointing them out. His disclosure statement was prepared which was attested by the witnesses. Kulbir Sharma (appellant) in consequence of his disclosure statement (Ex. PQ/3) got recovered a hockey stick (Ex. P6), a Vodafone mobile phone (Ex. P7) and a purse (Ex. P8) carrying photographs and medical slip of Gurpreet Singh @ Gopi (deceased). The site plan (Ex. PS/4) of the place of recovery was prepared.

22. From the above recoveries and evidence it may be noticed that the accused got recovered the weapons used in the crime. Gurmukh Singh @ Gura (appellant) got recovered 12 bore gun (Ex. P33) and 7.65 mm (.32" revolver) (Ex. P34); Gurnaib Singh got recovered 7.65 mm pistol (.32" pistol) (Ex. P35); Resham Singh (appellant) got recovered a "kirch" (Ex. P32) and Kulbir Sharma got recovered hockey stick (Ex. P6). The role attributed to Gurmukh Singh @ Gura (appellant) that after he came out of the car, he fired with his 12 bore double barrel gun which hit Gurpreet Singh @ Gopi (deceased) just above his right wrist. The latter fell down and then he started running towards the shop. Gurmukh Singh @ Gura (appellant) fired from his gun at the chest of the deceased from a close range. Gurnaib Singh (appellant) repeatedly fired with his pistol at the deceased and the deceased fell down. He also fired on the head of Gurpreet Singh @ Gopi (deceased). The appellant Resham Singh is attributed a "kirch" blow 14-15 times on the left side of the chest of Gurpreet Singh @ Gopi (deceased). Kulbir Sharma (appellant) is attributed hockey stick blows on the head of the deceased. The recoveries that were made were deposited with HC Gurdit Singh (PW-9) who on 20.9.2009 was posted as MHC at Police Station City Faridkot. Gurdit Singh (PW-9) has filed his affidavit (Ex. PL) in which he states that on 20.9.2009, SI/SHO Gurjant Singh (PW-11) handed over to him one

parcel of simple earth, one parcel of empties of 7.65 mm sealed with seal "GS" as case property. On 28.9.2009 HC Gurdit Singh (PW-9) from the Malkhana took out a parcel (dabbi of plastic) of blood stained earth and a parcel of simple earth, besides, one parcel of 7.65 mm empties duly sealed along with sample seal and handed them over to HC Gurdev Singh (PW-10). On 29.9.2009, Gurdev Singh HC (PW-10) took them to FSL, Chandigarh and some objections were raised there. HC Gurdev Singh (PW-10) on return handed over the parcels to HC Gurdit Singh (PW-9). On 5.10.2009, the parcel containing clothes of the dead body of Gurpreet Singh @ Gopi along with sample seal was handed over to HC Gurdev Singh (PW-10) who deposited the said parcel with the FSL Chandigarh and on 6.10.2009 he (PW-10) produced before him (PW-9) the receipt issued by the FSL Chandigarh which was placed on record. On 07.10.2009 SI/SHO Gurjant Singh (PW-11) handed over 12 bore rifle to HC Gurdit Singh (PW-9) and on 7.10.2009 also he handed over one 7.65 mm pistol to him as the case property. On 29.9.2009 HC Gurdit Singh (PW-9) from Malkhana took out one parcel of pistol 7.65 mm and another parcel of pistol 7.65 mm and another parcel of 12 bore gun sealed with seal "GS" and sample seal and handed over the same to HC Gurdev Singh (PW-10) to get them deposited with the FSL, Chandigarh. Objections were raised on the said parcel by the FSL. HC Gurdev Singh (PW-10) then handed over the same back to HC Gurdit Singh (PW-9) on 30.10.2009 and HC Gurdit Singh (PW-9) deposited the same in the Malkhana. The objections were removed and on 9.11.2009 HC Gurdit Singh (PW-9) handed over the same parcels to HC Gurdev Singh (PW-10). Gurdev Singh (PW-10) deposited the parcels with the FSL Chandigarh and on return he (PW-10) handed over its receipt to HC Gurdit Singh (PW-9) which he placed on record. So long as the case property remained with him in his custody, he did not tamper with the same and nor did he let anybody else tamper with the same. In cross-examination it is stated by HC Gurdit Singh (PW-9) that he could not tell exactly as to at what time on 20.9.2009 the articles were deposited with him. It was, however, evening time. His statement (Ex. DD) u/s 161 CrPC was recorded. It was incorrect to suggest that he had deposed falsely.

23. HC Gurdev Singh (PW-10) deposed his affidavit (Ex. PM) mentioning the details of the dates on which the case property was handed over to him, the date when he returned the same to MHC Gurdit Singh (PW-9) with objection from the FSL and the date he deposited the case property with the FSL Chandigarh. It is stated that so long as the case property remained with him in his custody, he did not tamper with the same nor let anybody else tamper with the same. In cross-examination it is stated by HC Gurdev Singh (PW-10) that he was not aware as to what were the objections raised by the laboratory (FSL). His statement u/s 161 CrPC was recorded by the Investigating Officer. It was incorrect to suggest that he had made a false deposition.

24. The case property was examined in the FSL Laboratory. The report of the FSL (Ex. P4) is on record. The date of receipt of the case property is mentioned as 6.10.2009 and 10.11.2009 through HC Gurdev Singh (PW-10). The articles that

were received were sealed parcels marked "A" to "C" each parcel sealed with the seal "GS" and two unsealed parcels marked "D" and "E" in the laboratory. The seal were found intact and tallied with the specimen seal. The parcel contained the following articles:-

RESULT OF EXAMINATION

On the basis of careful examination it has been concluded that-

1. The 7.65 mm K.F. cartridge cases marked C/1 to C/5 contained in parcel "A" had been fired from 7.65 mm IOF pistol bearing no. RP-110405 contained in parcel "B" referred above.
2. The chemical examination of barrel wash of 12 bore DBBL gun bearing No. 16185-89 marked W/1 contained in parcel "C" under reference indicates that it had been used in firing. However, its last date of fire can't be ascertained.
3. The 12 bore DBBL gun bearing No. 16185-89 marked W/1 referred above is in the working condition.

Examined by, Sd/- Assistant Director (Ballistics).

SHO City Faridkot. Immediately necessary Action

25. A perusal of the above FSL report (Ex. P4) shows that the recovered fire arms 7.65 mm cartridges marked C/1 to C/5 in the laboratory contained in Parcel "A" had been fired from 7.65 mm Indian Ordnance Factory Pistol No. RP-110405 contained in parcel B. The said pistol was recovered from Gurnaib Singh (appellant) vide recovery memo Ex. PT in pursuance of his disclosure statement (Ex. PQ/4). The 12 bore double barrel gun No. 16185-89 as mentioned above was recovered from Gurmukh Singh (appellant) vide recovery memo Ex. PS/1 in pursuance of his disclosure statement (Ex. PQ/2). The results indicated that it had been used in firing although its last date of firing could not be ascertained. Besides, the 12 bore double barrel gun was in working condition.

26. Dr. Shilekh Mittal, Assistant Professor Department of Forensic Medicines, GGS Medical College, Faridkot (PW-1) conducted the post-mortem examination of Gurpreet Singh @ Gopi (deceased) and he found as many as 35 injuries on his dead body which are to the following effect:-

1. A lacerated wound 1.7 x 1 cms on the right side of the forehead. 3 cms above, lateral end of right eye brow margins were everted, clotted blood was present.
2. A lacerated wound 0.5 x 0.4 cms on the right side of the forehead. 4 cms above eye brow, margins were inverted. Clotted blood was present, singing of hair and blackening was present.
3. A lacerated wound 1 x 0.6 cm on the back of left side of head, margins were everted, clotted blood was present.
4. A lacerated wound 0.5 x 0.4 cms on the left side of the head on its back,

margins were inverted. 10 cm above and backward to left ear pinna, clotted blood was present, singeing and blackening was present.

5. A lacerated wound 0.5 x 0.4 cms on the left side of head in its back, margins were inverted, 4.5 cms backwards to injury No. 4, clotted blood was present, singeing of hair and blackening was present.

6. An incised wound 4.5 x 1 cms on the back of left side of head in occipital region, clotted blood was present, on dissection, scalp deep.

7. An incised wound 2.5 x 0.5 cms on the back of left side of head just below injury No. 6 clotted blood was present, on dissection scalp deep.

8. An incised wound 2 x 1 cms on the right side of head, 4 cms backward to injury No. 1, clotted blood was present, on dissection scalp deep.

9. An incised wound 4 x 1.5 cms on the right lateral aspect of head, 6 cms backwards to ear pinna, clotted blood was present, on dissection scalp deep.

10. A reddish abrasion 4 x 1 cms on the top of head.

11. An incised wound 1.5 x 0.3 cms on the left lateral aspect of neck, 2.5 cms below left angle of mandible, clotted blood was present, on dissection skin deep.

12. An incised stab wound 2 x 1 cms on the left lateral aspect of neck 4 cms below ear pinna, clotted blood was present, on dissection muscle deep elliptical in shape.

13. An incised stab wound 2 x 0.8 cms on the left lateral aspect of neck, 1.7 cms below injury No. 12, clotted blood was present, on dissection muscle deep elliptical in shape.

14. An incised wound 2.3 x 0.5 cms on the top of left shoulder, clotted blood was present, on dissection skin deep.

15. An incised stab wound 3 x 1 cms on the front of left side of chest, 2 cms below and medial to nipple at 7.30 O'clock position, elliptical in shape, clotted blood was present.

16. An incised stab wound 2.5 x 0.7 cms on the front of left side of chest, 8 cms below nipple at 6 O'clock position, elliptical in shape, clotted blood was present.

17. An incised stab wound 2.5 x 1 cms on the left lateral aspect of chest, 5 cms below to nipple at 3.30 O'clock position, wedged in shape with sharp end forward and blunted end backward, clotted blood was present.

18. An incised stab wound 2 x 0.5 cms on the left lateral aspect of chest, 4 cms below injury No. 17, wedged in shape with sharp end forward and blunted end backwards, clotted blood was present.

19. An incised stab wound 2 x 0.5 cms on the left lateral aspect of chest, 0.4 cms below injury No. 18, wedged in shape with sharp end forward and blunted

end backwards, clotted blood was present.

20. An incised stab wound 2 x 1 cms on the left lateral aspect of chest, 4 cms below injury No. 19, wedged in shape with sharp end forward and blunted end backward, clotted blood was present.

21. An incised stab wound 2 x 0.5 cms on the left lateral aspect of chest, 12.5 cms below axilla, elliptical in shape, clotted blood was present.

22. An incised stab wound 2 x 0.5 cms on the left lateral aspect of chest, 1.3 cms below injury No. 21, elliptical in shape, clotted blood was present.

23. An incised stab wound 1.7 x 1.5 cms on the left lateral aspect of chest, 7 cms above and lateral to nipple at 2"O clock position on a position it is 2.5 x 0.5 cms and is elliptical in shape, clotted blood was present.

24. A multiple lacerated wound measuring 0.5 x 0.5 cms with inverted margins on the front of right side of chest 5 cms below nipple 5 in number clotted blood was present.

25. A lacerated wound 4 x 3.5 cms on the front of abdomen in the epigastric region, 12 cms above umbilicus at 12" O clock position, margins were inverted, clotted blood was present, loops of intestines were protruding out of the wound, blackening was present.

26. Multiple lacerated wound measuring 0.5 x 0.5 cms with inverted margins on the front of right side of abdomen in the flax, 4 cms above interior-superior iliac spine in an area of 15 x 10 cms, clotted blood was present.

27. An incised stab wound 1.7 x 1 cms on the front of right side of abdomen, 8 cms lateral to umbilicus, wedged in shape with sharp end medially and blunted end laterally, clotted blood was present, muscle deep.

28. An incised stab wound 2 x 0.5 cms on the back of left side of trunk, 21 cms backwards to posterior-superior iliac spine, clotted blood was present, elliptical in shape, muscle deep.

29. An incised stab wound 2.5 x 0.5 cms on the back of right side of trunk, 7 cms towards right from injury No. 28, clotted blood was present, elliptical in shape, muscle deep.

30. An incised stab wound 2.5 x 0.5 cms on the back of right buttock, 12 cms below injury No. 29, clotted blood was present, elliptical in shape, muscle deep.

31. A lacerated wound 14 x 10 cms on the back and lateral aspect of right fore arm, just above wrist, margins were inverted on the back portion of right forearm, blackening was present on the back of right forearm underlying radius ulna found fractured and soft tissues were lacerated, clotted blood was present.

32. A lacerated wound 4 x 1 cms on the medial aspect of right forearm, 2.5 cms above wrist, clotted blood was present, muscle deep.

33. Three lacerated wounds 0.5 x 0.5 cms each on the front of right arm in its middle in an area of 5 x 2 cms, margins were inverted, clotted blood was present.

34. An incised wound 4.5 x 2 cms on the left forearm, 4 cms below elbow, elliptical in shape, clotted blood was present, muscle deep.

35. An incised wound 1.5 x 1 cms on the front of right side of thigh in its upper 1/3rd clotted blood was present, skin deep.

27. All the injuries were ante-mortem in nature. Injuries No. 1 to 5, 24 to 26 and 31 to 33 were opined to be as a result of fire arm injuries. Injuries No. 6 to 9, 11, 14, 34 and 35 were as a result of sharp weapons. Injuries No. 10 and 32 were as a result of blunt weapon and injuries No. 12, 13, 15 to 23, 27 to 30 were as a result of sharp pointed weapon. The cause of death in the opinion of Dr. Shilekh Mittal (PW-1) was as a result of injuries No. 1 to 5, 15 to 23 and 25 causing injuries to brain, heart, left lung and spleen which were individually and collectively sufficient to cause death in the ordinary course of nature. The probable time that elapsed between the injuries and death was within few minutes and between death and postmortem was about 12 to 24 hours. He produced on record a carbon copy of the post-mortem report (Ex. PA) which was prepared by him and the pictorial diagram (Ex. PA/1) showing the seats of injuries. A sealed parcel containing belongings of the deceased was produced with seals intact. With the permission of the Court it was opened. In further cross-examination Dr. Shilekh Mittal (PW-1) stated that the pink colour Pajama-Kurta stained with blood and torn at places bearing signatures of the doctor was produced. It is stated as incorrect to suggest that Kurta is Ex. P1 and Pajama is Ex. P2. He (PW-1) had handed over to the police a sealed plastic "dabbi" (box) containing the pellets recovered by him from the dead body of Gurpreet Singh @ Gopi. A loose "dabbi" without any seal carrying a slip in the handwriting of the witness containing pellets was produced in the Court. Dr. Shilekh Mittal (PW-1) stated that since the "dabbi" was not sealed, he could not say with conformity if the pellets contained therein were the same or not. A sealed parcel bearing seal impression which was not legible was produced in Court and on the request of the Public Prosecutor it was opened. A dagger with steel handle sharp edged from both sides with a sharp pointed end was taken out from it. The learned Public Prosecutor put a question to Dr. Shilekh Mittal (PW-1) as to whether the stab wounds on the dead body could be caused by such weapon. Dr. Shilekh Mittal (PW-1) stated that injuries No. 12, 13, 15, 16, 21, 22, 23, 28, 29 and 30 could be caused by such like weapon. However, stab wounds which were wedged shape could not be caused by such a weapon. This portion was voluntarily stated. A sealed parcel with seal impression of FSL was produced and on the request of the Public Prosecutor, the same was allowed to be opened and a pistol.32 bore in a black holster and weapon carrying the impression "Indian Ordnance Factory" with plastic handle were taken out. Another sealed parcel bearing seal impression of FSL was produced in the Court and on the request of the Public Prosecutor the same was allowed to be opened and a.12 bore double

barrel gun was taken out carrying the impression "Meher Singh and Sons". Another parcel containing revolver with plastic handle carrying impression "Ordnance Guns, Kanpur" was produced. The learned Public Prosecutor put a question as to whether the fire arm wounds on the dead body could be caused by such three weapons. Dr. Shilekh Mittal (PW-1) answered that injuries No. 24, 25, 26, 31, 32 and 33 could be as a result of .12 bore gun shot. Injuries No. 1 to 5 could be as a result of any rifle weapon. On the police request (Ex. PB) he (PW-1) conducted the postmortem examination which was duly endorsed by Dr. A.S. Thind, his senior Head of the Department and the same was Ex. PB/1. In cross-examination it is stated by Dr. Shilekh Mittal (PW-1) that he had seen the ammunition of revolver. He could not definitely opine on the exact kind of weapon used for causing the injuries as were there on the dead body. It is stated as correct that an injury caused by a pellet of .12 bore gun and by that of a bullet of a revolver or pistol of Caliber .32 bore are quite distinct from each other. He was never shown any weapon of offence by the Police to seek his opinion qua the injuries on the dead body. He had not recovered any bullet head from the dead body and only pellets were recovered by him. It was correct that injuries No. 2, 4, 5, 24, 26 and 33 were similar in nature size wise as well as nature wise. Dr. Shilekh Mittal (PW-1) signed the police papers bearing pages No. 1 to 30 after browsing the same. He did not remember exactly the nature of all these papers. However, there was a FIR and an inquest report in the police papers.

28. In the background of what has been referred to and discussed above it is quite apparent that the recoveries of weapons had been made in pursuance of the disclosure statements of the appellants. The weapons recovered were subjected to examination by the Forensic Science Laboratory. Besides, the dead body of Gurpreet Singh @ Gopi was subjected to post-mortem examination by Dr. Shilekh Mittal (PW-1) who found that there were as many as 35 injuries on his dead body. Besides, the car of Gurmukh Singh (appellant) the number of which was mentioned in the statement (Ex. PC) of Kuldeep Singh (PW-2) was recovered in pursuance of his disclosure statement. Therefore, in view of this nature of evidence on record it cannot be said that the FIR lodged by Kuldeep Singh (PW-2) was speculative in nature and that he or Gurmeet Singh (PW-3) were not present at the spot. The car of Gurmukh Singh (appellant) was clearly recognized and was seen at the time of occurrence and it finds a mention in the FIR (Ex. PC/2). There is also a mention in the FIR that a person looking like Gurmukh Singh @ Gura (appellant) was seen. The FIR would not be speculative in nature as the person like Gurmukh Singh @ Gura (appellant) indeed had been seen by Kuldeep Singh (PW-2) which he states in his deposition in Court as well. The fact that he stated that a person like Gurmukh Singh @ Gura (appellant) was seen can also be construed to mean that the statement was made so as to ensure that no false person is implicated and the real culprits are brought to book. The subsequent investigations that were carried out by the police and the depositions of Gurmeet Singh (PW-3) and SI/SHO Gurjant Singh (PW-11) coupled with the recoveries, the FSL report and the postmortem examination of

the dead body of Gurpreet Singh @ Gopi lead credence and support to the prosecution case that Gurmukh Singh @ Gura (appellant) was indeed seen at the time of occurrence. It cannot be said that the identity of Gurmukh Singh @ Gura (appellant) is not established and consequently all the appellants have been falsely implicated. Merely because in the inquest report (Ex. PB) it is recorded that the crime had been committed by some unidentified persons and the fact that statements of both the eye-witnesses namely Kuldeep Singh, complainant (PW-2) and Gurmeet Singh (PW-3) had been recorded during inquest proceedings would not mean that the identities of the persons involved in the case were not established. The purpose of the inquest report which is conducted in terms of Section 174 CrPC is to enquire by the Police and report on suicide, etc. Section 174 CrPC provides that when the officer In-charge of a Police Station or some other police officer specially empowered by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the State Government, or by any general or special order of the District or Sub-Divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted. Therefore, the purpose of inquest u/s 174 CrPC is to draw up a report of the apparent cause of death, describing the wounds, fractures, bruises and other marks of injury as may be found on the dead body. It is not in the nature of First Information Report and it cannot per se be said that because the names of the accused are not mentioned in the inquest report, the accused were implicated later on. In the facts and circumstances of the present case, the complainant Kuldeep Singh (PW-2) had stated in his statement (Ex. PC) on the basis of which FIR was registered that one of the assailants looked like Gurmukh Singh @ Gura (appellant) whereas the others were not identified. Therefore, in the facts and circumstances of the present case it was quite appropriate for him to say that the others remained unidentified, however, this would not cast any doubt on the authenticity of his evidence for failure to mention the name of the assailants in his statement made during the inquest proceedings. In the circumstances, it cannot be said that as the name of Gurmukh Singh @ Gura (appellant) is not mentioned in the inquest report (Ex. PB) whereas it is mentioned in the FIR, this would go to show that the FIR was registered subsequent to the inquest proceedings. In fact there is nothing to show or hold that the inquest proceedings were carried out before recording the statement (Ex. PC) on the basis of which FIR (Ex. PC/2) was registered.

29. The learned Senior counsel for the appellants in support of his contention that the inquest proceedings were carried out before recording the FIR has placed reliance on the deposition of Head Constable Ashok Kumar, Photographer CIA Staff, Faridkot (PW-7). He (PW-7) in his deposition states that he has been working as official photographer. On 20.9.2009 he was summoned to take photographs of the place of occurrence situated in Guru Nanak Colony opposite to Medical College, Faridkot. He clicked the photographs of the place using digital camera and the photographs are Ex. P9 to Ex. P27 which correctly depicts the place and were not tampered with. In cross it is stated that the photographs (Ex. P20 to Ex. P27) pertain to empties and depicts different features and pertain to different points of site near the dead body. He clicked photographs as per his own intelligence. He clicked photographs of each and every empty lying at the spot, which had come across to his eye sight. The dead body as well as the empties was lying on the "Kacha" (un-metalled) area where there was growth of wild grass. When he took photographs of the place of occurrence, the SI/SHO (PW-11) with the other police officials was present. So long as he remained at the spot where the crime had taken place neither the SSP nor the DSP visited the spot. It was correct that photographs (Ex. P9, Ex. P17 and Ex. 19) depict DSP Sewa Singh at the spot. It was incorrect to suggest that he had deposed falsely. It is stated that he had gone to the spot at around 8/8.30 p.m. It was incorrect to suggest that the photographs of the empties had been subsequently prepared.

30. According to the learned Senior counsel for the appellants, the fact that DSP Sewa Singh is at the spot and the fact that the photographer Head Constable Ashok Kumar (PW-7) had gone to the spot around 8/8.30 p.m. goes to show that the inquest report was recorded initially and thereafter the FIR was recorded. It is, therefore, strenuously contended that there has been delay in the registration of the FIR and the same remains unexplained, which casts serious doubts in the prosecution case. It may be noticed that in the heart of Faridkot town murder of a young boy who had recently married had been committed. It would take time for the eye witnesses who had seen the occurrence and were pursuing the case to compose and stabilize. With such gruesome murder and the number of injuries on the dead body of Gurpreet Singh @ Gopi, the complainant Kuldeep Singh (PW-2) and his companion Gurmeet Singh (PW-3) cannot be expected to conduct themselves normally as if nothing had happened. It would take time for them to grapple with the situation and take grasp of themselves especially when Gurpreet Singh @ Gopi a young boy had been murdered in a gruesome manner with as many as 35 injuries. Therefore, for the Court to expect that they would utter and narrate the incident in a parrot like manner when one of their own has been murdered is quite difficult to comprehend. The recording of FIR indeed must have taken time but it is to be considered in the background in which the nature of the crime had been committed. The facts and circumstances show that Kuldeep Singh (PW-2) has stated that the incident had occurred at 7.00 p.m. while Gurmeet Singh (PW-3) has stated that the incident had occurred at 6.30 p.m. There is not much difference in time and the time given by the witnesses is

by approximation. Besides, it is not so much at variance as to hold that it would not be plausible to say that the incident had occurred in the evening between 6.30 to 7.00 p.m. on 20.9.2009. Therefore, the variance in time in the deposition of the two eye-witnesses Kuldeep Singh (PW-2) and Gurmeet Singh (PW-3) is insignificant, besides, inconsequential.

31. The other discrepancy that is highlighted is that Kuldeep Singh (PW-2) states that his statement was recorded at Sadiq Chowk which is 50 yards from the place of occurrence at 9.30 p.m. while FIR is recorded at 9.40 p.m. and the special report was received by the Ilaqa Magistrate at 3.45 a.m. on the next day of the occurrence, that is, on 21.9.2009 in the facts and circumstances is also not of much significance. The FIR is not shown to have been registered with any prior consultations and deliberations so as to introduce an element of falseness. In fact none is discernible from the perusal of the FIR. It is to be kept in view that after the incident one of the assailants was identified to be looking like Gurmukh Singh @ Gura (appellant). The others have been named as accused on the basis of the statement of Gurmeet Singh (PW-3) who in his statement inter alia states that while he along with Kuldeep Singh (PW-2) were going on their motorcycle following the motorcycle of Gurpreet Singh @ Gopi and were at a distance of 10/15 "karams" behind him then Gurpreet Singh @ Gopi on reaching the turn of Guru Nanak Colony, Gali No. 2 had taken a turn while they were to take the turn. Then at that time from the opposite side a white colour Maruti Zen car came and stopped in front of the vehicle of the deceased. The registration number of the car was PB 32C 8231. Kuldeep Sharma (appellant) was at the steering wheel of the car and next to him Gurmukh Singh @ Gura was sitting. On the rear seats, Gurnaib Singh and Resham Singh were sitting. Gurmukh Singh @ Gura came out of the car armed with a .12 bore gun. He fired with his weapon hitting on the right arm of Gurpreet Singh @ Gopi who fell from the motorcycle and thereafter he ran towards the side lane. Gurnaib Singh who was armed with a pistol fired with it and Gurpreet Singh @ Gopi fell down. Thereafter, all the accused including Resham Singh armed with a "Kirch" and Kuldeep Sharma armed with a hockey stick attacked the deceased. He had seen all the accused persons in Court and he could identify them. Resham Singh gave 14-18 blows of his "Kirch" on the left side of his chest and surrounding area of the deceased Gurpreet Singh @ Gopi. Gurnaib Singh fired from his pistol hitting the head of the deceased. Kulbir Sharma gave hockey blows on the head of the deceased and Gurmukh Singh fired 3-4 shots from his gun hitting the chest area of the deceased. When the deceased returned to their car, both of them fearing for their life ran helter shelter. In this manner all the accused were identified at the time of incident. It would, therefore, be quite appropriate to say that in case the prosecution was to introduce wrong persons in the case as stated by Mr. H.S. Gill, learned Senior Counsel for the complainant, they would have named Gurlabh Singh @ Labh Singh father of Manpreet Kaur (DW-1) also as an accused. However, according to Sh. H.S. Gill, learned Senior Counsel the fact that they have not done so leads credence to the prosecution case is not devoid of merit.

Merely because some delay has occurred in recording the FIR it is to be seen in the facts and circumstances that delay had occurred as it took time for the witnesses to comprehend and compose themselves to the gruesome murder that had been committed in front of them. At that point of time there must have not only be an element of grief over the dead body but of discomfort and helplessness in not being able to do much. Besides, mere prompt lodging of a FIR is not an unmistakable guarantee for the truthfulness of its version and neither is delay always fatal. A balanced approach is to be taken keeping in view the ground realities in the facts and circumstances in which the crime had been committed. In the circumstances it cannot be said that the FIR is speculative in nature inasmuch as room was left for naming other persons as accused in case the involvement of Gurmukh Singh @ Gura (appellant) was not established. It could well be that other persons who were enemies of Gurpreet Singh @ Gopi could have joined with Gurmukh Singh @ Gura to commit the murder.

32. It is also appropriate to note that there is a strong motive for Gurmukh Singh @ Gura and his other family members to commit the murder of Gurpreet Singh @ Gopi. Gurpreet Singh @ Gopi (deceased) and Manpreet Kaur (DW-1) on their own had solemnized their marriage amongst themselves at Delhi. They had stayed there for 10-15 days. Thereafter, they stayed at the house of Gurpreet Singh @ Gopi in village Pakhi Kalan for some time. Then they shifted to the house which they had taken on rent in Street No. 2, Guru Nanak Colony, Faridkot. The motive is more so established from the fact that FIR No. 200 dated 14.11.2008 (Ex. PG) was lodged by Labh Singh, father of Manpreet Kaur (DW-1) stating that his daughter Manpreet Kaur (DW-1) aged 17-18 years was studying in +2 in Guru Nanak Girls College, Model Town, Ludhiana. For the marriage of the nephew of Labh Singh, he had brought his daughter Manpreet Kaur from Ludhiana to his house on 3.11.2008. There the entire family was busy in the marriage ceremony. On 4.4.2008, the family as usual got up in the morning and found that Manpreet Kaur was not present in the house. They searched for her here and there but she was not found. On search they came to know that Manpreet Kaur had been enticed by Gurpreet Singh @ Gopi (deceased). She was a minor and he asked for legal action being taken against Gurpreet Singh @ Gopi, his father Gurditta Singh, mother Jaswinder Kaur and mother's sister Charanjit Kaur @ Jaswinder Kaur and Harpal Singh residents of Lalle as they had enticed his daughter on the pretext of marriage. Thereafter, Manpreet Kaur (DW-1) along with Gurpreet Singh @ Gopi, the parents of Gurpreet Singh @ Gopi namely Gurditta Singh (father) and Jaswinder Kaur (mother) as also Charanjit Kaur @ Jaswinder Kaur (sister of Jaswinder Kaur-the mother of Gurpreet Singh @ Gopi) jointly filed CRM No. M-3135 of 2009 in this Court seeking quashing of aforesaid FIR No. 200 dated 14.11.2008 (Ex. PG) that had been registered for the offences under Sections 363-A, 366-A, 120 and 120-B IPC at Police Station Sadar Faridkot and all consequential proceedings arising there from. This Court vide order dated 3.11.2009 (Ex. PG/1) after noticing the facts and in view of the murder of Gurpreet Singh @ Gopi during the pendency of the petition before this

Court and the law laid down held that allowing the impugned prosecution to continue would amount to an abuse of the process of the Court, particularly when there was nothing on record to indicate as to how exactly the petitioners other than the petitioner who had been murdered and petitioner Manpreet Kaur could have facilitated the elopement/enticement of petitioner Manpreet Kaur. The petition was allowed and the FIR No. 200 dated 14.11.2008 (Ex. PG) was quashed. Therefore, the statement of Manpreet Kaur (DW-1) to the effect that her family did not have any objection to her marriage with Gurpreet Singh @ Gopi would not be tenable as indeed the family of Manpreet Kaur (DW-1) was agitated with the matter and it is for this said reason that FIR No. 200 dated 14.11.2008 (Ex. PG) was got registered by Labh Singh @ Gurlabh Singh, father of Manpreet Kaur (DW-1). The fact that Manpreet Kaur had gone willingly with Gurpreet Singh @ Gopi is borne out from the joint petition i.e. CRM No. M-3135 of 2009 filed by her along with her husband and her in-laws seeking quashing of the FIR (Ex. PG) registered against her which was also quashed vide order dated 3.11.2009 (Ex. PG/2). Therefore, there was a strong motive for the family of Manpreet Kaur to commit the murder of Gurpreet Singh @ Gopi who according to them had enticed her and surreptitiously taken her even though she was a minor. It is during the pendency of the petition seeking quashing of the FIR that the murder of Gurpreet Singh @ Gopi was committed. In case there was no grouse of the appellants to the marriage between Gurpreet Singh @ Gopi and Manpreet Kaur, they could have themselves stated and accepted the marriage by stating in this Court that they had no objection to the quashing of the FIR (Ex. PG).

33. The other contention that has been raised by learned counsel for the appellants is that the eye-witnesses are closely related and their presence is not established as they did not receive any injury and had they been present they would also have suffered injuries. In any case, they were chance witnesses. It may be noticed that on the date of the occurrence there was fair of Baba Farid in Faridkot and many persons had gone for the fair. It is not uncommon for people in the area to attend such fairs and meet each other and hit into them. The complainant Kuldeep Singh (PW-2) and his cousin brother Gurmeet Singh (PW-3) had together gone to attend the fair. Gurmeet Singh (PW-3) is the maternal uncle's son of the deceased Gurpreet Singh @ Gopi as also of Kuldeep Singh (PW-2). Therefore, for Kuldeep Singh (PW-2) and Gurmeet Singh (PW-3) who are both of the same age group to go together for the fair and on their way back meet Gurpreet Singh @ Gopi and the latter asking them to go only after they had a meal with him, in the facts and circumstances, is quite natural. It is when both of them, that is, Kuldeep Singh (PW-2) and Gurmeet Singh (PW-3) were going on their motorcycle following the motorcycle of deceased Gurpreet Singh @ Gopi and were 10 "karams" behind him that Gurpreet Singh @ Gopi took a turn in the street and from the opposite direction a white colour Zen car of the assailants came in the street. The driver of the car stopped the car in front of the motorcycle of Gurpreet Singh @ Gopi and an assault was committed by the assailants with their weapons. Therefore, it may be noticed that Kuldeep Singh

(PW-2) and Gurmeet Singh (PW-3) were behind the motorcycle of Gurpreet Singh Gopi (deceased). The incident had occurred in the busy street at about 6.30/7.00 p.m. The assailants had a fixed target. Therefore, Kuldeep Singh (PW-2) and Gurmeet Singh (PW-3) had gone unnoticed by them. They in all probability were unaware that they were following Gurpreet Singh @ Gopi on their own motorcycle. Besides, the object and the motive of the assailants were to kill Gurpreet Singh @ Gopi. In case shots had been fired in the street it could have injured others as well. Therefore, to say that the presence of Kuldeep Singh (PW-2) and Gurpreet Singh (PW-3) is not established at the place of occurrence because they did not suffer injuries would be inconsistent with the manner in which the incident had occurred. The eye-witnesses were, therefore, present at the time of the incident and they had narrated the incident in the manner they saw it. In view of the fair of Baba Farid for which people in the area do go, they cannot be said to be chance witnesses.

34. The others discrepancies which are urged by the learned counsel for the appellants are that SI/SHO Gurjant Singh, Investigating Officer (PW-11) states that in DDR No. 33 dated 20.9.2009 it is not mentioned that one person looked like Gurmukh Singh @ Gura (appellant), besides, SI/SHO Gurjant Singh, Investigating Officer (PW-11) had gone to village Sarawan on 25.9.2009 in search of Gurmukh Singh @ Gura (appellant). He went to the house of Resham Singh (appellant) searching for Gurmukh Singh but despite the fact that Resham Singh was an accused, he did not arrest him. Therefore, according to the appellants" till 25.9.2009 the names of accused other than the person who is stated to look like Gurmukh Singh @ Gura were not known to the police. It is also submitted that the number of assailants are mentioned in the FIR as five and four of them are stated to be clean shaven while the fifth person was wearing a turban that was said to resemble Gurmukh Singh @ Gura (appellant). However, the fifth person has not been identified by the prosecution.

35. In this regard it may be noticed that SI/SHO Gurjant Singh, the Investigating Officer (PW-11) states that in the entry i.e. DDR No. 33 dated 20.9.2009 he had not mentioned that one person looked like Gurmukh Singh @ Gura, accused. The DDR entry as per the FIR (Ex. PC/2) is recorded at 9.40 p.m. whereas the statement (Ex. PC) of complainant Kuldeep Singh (PW-2) is recorded earlier by SI/SHO Gurjant Singh, Investigating Officer (PW-11) at 9.30 p.m. at Sadiq Chowk. In the said statement (Ex. PC) of Kuldeep Singh (PW-2) which was recorded earlier in point of time to the DDR entry, the fact of a person resembling Gurmukh Singh @ Gura is mentioned. Therefore, the fact that it is not so mentioned in DDR No. 33 dated 20.9.2009 is quite inconsequential and may be an inadvertent omission.

36. The contention that SI/SHO Gurjant Singh, Investigating Officer (PW-11) states that he had gone to village Sarawan to the house of Reshma Singh (appellant) searching for Gurmukh Singh (appellant) and the fact that he did not arrest Resham Singh (appellant) is also not of much significance. The police was

investigating the case and one of persons had been identified as Gurmukh Singh (appellant). Therefore, SI/SHO Gurjant Singh, Investigating Officer (PW-11) had gone to the house of Resham Singh in village Sarawan in search of Gurmukh Singh. The fact that he does not arrest Resham Singh could possibly be for the reasons that he wanted to first apprehend Gurmukh Singh (appellant) so as to ascertain the involvement of others. Even otherwise, the police are not bound to immediately arrest an accused and it can carry out necessary investigations to ascertain the involvement of the culprits who are actually involved in the crime. Therefore, merely because Resham Singh (appellant) was not arrested by SI/SHO Gurjant Singh, Investigating Officer (PW-11) when he went to village Sarawan of Resham Singh is not such a circumstance as to doubt the prosecution case.

37. The fact that the number of assailants is mentioned as five and only four of them have been proceeded against is also inconsequential. The incident had occurred in the street and there were others also in the street that was there. Therefore, the possibility of the complainant stating that there were five assailants is quite natural and does not, in any manner, affect the case of the prosecution. Besides, Gurmeet Singh (PW-3) has named all the four accused.

38. Ms. Baljit Mann, Advocate for the appellants Resham Singh and Kulbir Sharma appellants in CRA No. D-1119-DB of 2011 has emphasized that there is in any case no motive whatsoever for the said appellants to commit the murder of Gurpreet Singh @ Gopi. Kulbir Sharma (appellant) is a resident of village Bhagthala Kalan which is the same village as that of Gurmukh Singh @ Gura (appellant), but he has nothing to do with the family of Gurmukh Singh @ Gura. Resham Singh is a resident of village Sarawan and he has been implicated only because he is a relative of appellant Gurmukh Singh @ Gura. Insofar as the involvement of Resham Singh is concerned, it may be noticed that he is a resident of village Sarawan, Police Station Sadar Kot Kapura, District Faridkot which is not of much distance from the place of occurrence. In the incident that occurred he inflicted 14-15 "kirch" blows on the left side of the chest of the deceased and the surrounding area. Kuldeep Singh, complainant (PW-2) in his statement (Ex. PC) states that the assailants were carrying arms and a "kirch". Resham Singh made a disclosure statement (Ex. PQ/1) before SI/SHO Gurjant Singh (PW-11) which is to the effect that he had concealed a "kirch" at village Bhagthala Kalan in the corner of the cattle shed by digging a pit in the house of Gurmukh Singh (appellant) and only he knew about it. Besides, his mobile phone was put in a glazed paper and had been kept concealed in a residential room and only he knew about it. He could get the same recovered by pointing them out. In consequence of his disclosure statement (Ex. PQ/1), he vide recovery memo (Ex. PR/1) got an iron "kirch" recovered by digging a pit and removing earth with his own hands which was under the "chappar" (Pond) of the cattle shed in a corner of the residential house of Gurmukh Singh @ Gura (appellant). The length of the "kirch" was 10 fingers with an iron handle like a pipe of 5 fingers. It had a cross hold, fitted with one long piece of iron ("pattri") of about 2 fingers welded and

attached with iron handle. Its sketch had separately been drawn and converted into a parcel and taken in police possession through memo (Ex. PR/1) which was attested by the witnesses. The site plan (Ex. PR/2) of place of recovery of "kirch" was prepared. The "kirch" (Ex. P32) was identified by SI/SHO Gurjant Singh (PW-11) which was taken out after a sealed parcel bearing seal of FSL was produced in the Court and opened. In terms of the deposition of Dr. Shilekh Mittal, (PW-1) injuries No. 6 to 9, 11, 14, 34 and 35 were as a result of sharp weapon and injuries No. 12, 13, 15 to 23 and 27 to 30 were result of a sharp pointed weapon. As per the prosecution case, the other accused namely Gurmukh Singh @ Gura and Gurnaib Singh were armed with a 12 bore double barrel gun (Ex. P33) and 7.65 mm (.32") pistol (Ex. P35) and Kulbir Sharma (appellant) was armed with a hockey stick (Ex. P6). Therefore, it is only Resham Singh (appellant) who was armed with a sharp edged weapon, that is, the "kirch" (Ex. P32) and the injuries which have been mentioned are attributed to him. On 4.10.2009, SI/SHO Gurjant Singh (PW-11) had arrested Resham Singh vide arrest memo (Ex. PP/1). Therefore, the police or the complainant had no reason whatsoever to falsely implicate Resham Singh (appellant). The mere fact that he is a relative of Gurmukh Singh @ Gura (appellant) and has therefore been implicated is not correct. In the police report, it is mentioned that during investigation from the statement of Gurmukh Singh (PW-3) four accused namely Gurmukh Singh @ Gura, Kulbir Sharma, Gurnaib Singh and Resham Singh were nominated. In the statement of Gurmeet Singh (PW-3), Kulbir Sharma was driving the car and Gurmukh Singh (appellant) was sitting next to him. On the rear seat of the car Gurnaib Singh and Resham Singh were sitting. Gurmukh Singh @ Gura came out of the car. At that time, he was armed with a 12 bore gun. He fired from his gun which hit Gurpreet Singh @ Gopi on his right arm and he fell from the motorcycle. Thereafter, he ran towards the lane behind the medical shops. Gurnaib Singh was armed with a pistol and he fired with it. Thereafter, the accused including Resham Singh with a "kirch" and Kulbir Sharma with a hockey stick attacked the deceased. So the evidence of involvement of Resham Singh has come in evidence of Gurmeet Singh (PW-3). The injuries inflicted by him are substantial in number. The fact that he is related to Gurmukh Singh @ Gura (appellant) can be taken both ways. According to Ms. Mann, Advocate he has been implicated only because he is the brother of wife of Gurmukh Singh @ Gura. However, it can also be said that he being relative of Gurmukh Singh @ Gura had gone along with him to commit the murder of Gurpreet Singh @ Gopi as the entire family was upset due to Manpreet Kaur having run away with the deceased. In view of the overwhelming evidence which has come on record by way of the deposition of Gurmeet Singh (PW-3), the recovery of kirch (Ex. P32), the number of injuries with a sharp edged weapon on the dead body of deceased Gurpreet Singh @ Gopi establishes beyond reasonable doubt the involvement of Resham Singh.

39. As regards Kulbir Sharma (appellant) it may be noticed that he according to Gurmeet Singh (PW-3) was driving the car which had come on the opposite side

at the time of the incident. The eye witness account indeed is that the assailants were armed with arms and a "kirch". None of the assailants is said to be armed with a hockey stick. Ms. Mann, Advocate may be right in saying that Kulbir Sharma had no motive to commit the murder of Gurpreet Singh @ Gopi as he is not connected with the family of the other appellants. Besides, the possibility of naming him as an accused carrying a hockey stick after Dr. Shilekh Mittal (PW-1) had found injuries No. 10 and 32 to be as a result of blunt weapon also cannot entirely be ruled out. It is, however, a fact that he is a resident of village Bhagthala Kalan which is the village of Gurmukh Singh @ Gura (appellant). He is said to be driving the car at the time of incident. However, a benefit of doubt is liable to be given to him for the reason that the weapon which he is said to be carrying is not established, besides, he had really no motive to commit the murder of Gurpreet Singh @ Gopi as he is unconnected with the family of the other appellants. Therefore, the two appeals as regards the conviction of the appellants namely Gurmukh Singh @ Gura, Gurnaib Singh and Resham Singh are liable to be dismissed. However, the appeal of Kulbir Sharma in its entirety is liable to be accepted and his conviction and sentence liable to set aside.

40. As regards the sentence of death imposed upon the appellants namely Gurmukh Singh, Gurnaib Singh and Resham Singh for the offence u/s 302 IPC, it may be noticed that the case is one of "honour killing". However, it is not based on caste inasmuch as both the sides are of the same caste. They have somewhat the same holdings of land and are equal in status. However, the incident has occurred on account of misplaced and wrong notions on the part of the appellants Gurmukh Singh, Gurnaib Singh and Resham Singh that a daughter of their family had eloped with Gurpreet Singh @ Gopi against their wishes. The possibility of their being reformed cannot be ruled out and they coming back in the main stream of life also cannot entirely be shut. Therefore, the sentences of death in the facts and circumstances of the case is unduly harsh. However, they are liable to be sentenced to imprisonment for life, besides, pay a fine of Rs. 25,000/- each and in default of payment of fine, to undergo rigorous imprisonment for two years for the offence u/s 302 IPC. Besides, the conviction and sentence of Gurmukh Singh @ Gura (appellant) and Gurnaib Singh (appellant) for the offence u/s 27 of the Arms Act is liable to be maintained and upheld as it is. In the circumstances, the murder reference No. 8 of 2011 that has been made is declined. CRA No. D-1172-DB of 2011 is dismissed as regards the conviction of the appellants Gurmukh Singh @ Gura and Gurnaib Singh and CRA No. D-1119-DB of 2011 is dismissed as regards the conviction of appellant Resham Singh, for the offence u/s 302 IPC. Their conviction for the offence u/s 302 IPC is maintained. However, instead of sentence of death, they are sentenced to imprisonment for life, besides, pay a fine of Rs. 25,000/- each and in default thereof, to undergo rigorous imprisonment for two years. The conviction and sentence of Gurmukh Singh @ Gura and Gurnaib Singh (appellants in CRA No. D-1172-DB of 2011) for the offence u/s 27 of the Arms Act, that is, to undergo rigorous imprisonment of three years and to pay a fine of

Rs. 2,000/- and in default by the appellant who does not pay the fine to undergo rigorous imprisonment for three months, is maintained. The sentences of imprisonments for the offences under Sections 302 IPC and Section 27 of the Arms Act in respect of Gurmukh Singh @ Gura and Gurnaib Singh shall run concurrently. The periods of imprisonments undergone by the appellants Gurmukh Singh @ Gura, Gurnaib Singh and Resham Singh during investigations, trial and pendency of the appeal shall be set off against the substantive sentences of their imprisonments. CRA No. D-1119-DB of 2011 of Kulbir Sharma (appellant) is allowed and he is given the benefit of doubt. His conviction and sentence for the offence u/s 302 IPC is set aside. He be set at liberty forthwith if he is not wanted in any other case.