

BAKSHISH SINGH

v.

STATE OF PUNJAB & ANR.

(Criminal Appeal No. 1110 of 2009)

AUGUST 06, 2013

[DR. B.S. CHAUHAN AND S.A. BOBDE, JJ.]

Penal Code, 1860 – s. 302 and s.02 r/w. 120-B – Murderous assault leading to death of a person when he was taking a walk in the park adjoining his house – three accused – ‘B’, his nephew ‘S’ and nephew’s friend ‘R’ – Conviction of all the three accused, by the Courts below – Justification – Held: On facts, justified – ‘S’ and ‘R’ had assaulted deceased with a knife which caused his death – However, ‘S’ and ‘R’ had nothing to gain by eliminating ‘G’ – They had no conflict with him – Evidence not demonstrating instances of any personal motive borne by ‘S’ and ‘R’ against the deceased and the only reason why they killed the victim is that ‘B’ master minded the murder – ‘B’ was opposed to ‘G’ and wanted to get the Chairmanship of the Educational trust of which the deceased was the Chairman – Relationship between deceased and his wife (PW1) on the one hand and ‘B’ and his wife on the other hand was completely hostile – ‘B’ and his wife had given murder threats to deceased and also threats to rape his daughter – To get the Chairmanship of the Trust or in any case to remove the deceased was a sufficiently strong motive to have the opponent eliminated particularly when seen in the surrounding circumstances – Motive of ‘B’ along with other circumstantial evidence sufficient to convict the three accused – Evidence of PW1 and other prosecution witnesses was convincing, reliable and trustworthy.

Evidence – Identification of accused – Murder case – Death caused due to assault with knife – PW1, wife of the

A deceased, was an eye witness – Her description of the assailant was that he had a trimmed beard but in the court when he was identified by PW1, he did not have a trimmed beard but had a full grown beard – Defence plea that PW1 was confused as regards identification of the assailant – Held:

B Not tenable – It is quite natural for a person when he is about to commit a crime to change his appearance by shaving his beard – Also, nothing improbable for a wife whose husband is attacked to have carefully noticed the face of the assailant and thereafter to identify the same person even if his beard has grown back and also to identify that person from photograph – Moreover, the accused-assailant was employed by the Institute run by the Educational Trust, whose founder Chairman was the deceased and PW1 used to see him on several occasions.

D Evidence – Witness – Appreciation of – Murder case – PW had informed the police, after reading the public appeal for clues – No suspicion on the identity of this witness and his presence at the spot – Held: Merely because the PW did not approach the police immediately on the date of the incident but approached the police after he had read the public notice; his testimony is not liable to be thrown out.

F Evidence – Appreciation of – Murder case – Husband of PW1 stabbed to death – Defence plea that prosecution story was false since PW2 purportedly heard the alarm “Mar Ditta Mar Ditta” whereas PW1, who witnessed the incident, stated she had raised the alarm of “Bachao- Bachao” – Whether this discrepancy significant enough to discard the veracity of the statements of either PW1 or PW2 – Held: No

G since in an emergency of this nature witnesses are not expected to remember the precise words spoken by them – Often what comes out from witnesses who have witnessed a brutal murder is gibberish – The testimony is not liable to be rejected on that ground alone.

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Evidence – Motive – Proof – Held: When a high degree of animosity is established, existence of motive may be taken to be established.

Evidence – Discrepancies in – Appreciation – Held: Minor inconsistent versions/discrepancies do not necessarily demolish the entire prosecution story, if it is otherwise found to be creditworthy.

The prosecution case was that 'B' conspired with his nephew 'S' and nephew's friend 'R' to murder 'G' - the husband of PW1, when he went to the park adjoining his house for a morning walk. It was alleged that when the deceased reached near the main gate of the park, 'S' and 'R' stabbed him barbarically with a dagger and fled the scene in a scooter.

'B' was allegedly the mastermind of the crime. PW1, an eye witness, stated that motive may be the result of a conspiracy entered by 'B' alongwith his wife to get the Chairman Ship of an Educational Trust of which the deceased 'G' was the Chairman. A blood stained dagger was recovered from the hedge of the park and alongside the hedge, there was a barbed wire and a piece of blood stained cloth was found entangled therein. PW8, who conducted post-mortem deposed that the injuries on the deceased were caused by a sharp edged weapon.

The trial court convicted 'B' under Section 302 read with Section 120-B IPC whereas 'S' and 'R' were convicted under Section 302 and Section 302 read with Section 120-B IPC. All the three accused were sentenced to life imprisonment. The conviction was affirmed by the High Court, and, therefore, present appeals by 'B', 'S' and 'R'.

Dismissing the appeals, the Court

A HELD: 1. PW1 described the incident with sufficient
clarity. As regards her identification of 'S', it was argued
that she was confused. According to the appellants, her
description of 'S' was that he had a trimmed beard but in
B the court when he was identified by PW-1; he did not
have a trimmed beard but had a full grown beard. This
contention must be rejected since it would appear quite
natural for a person when he is about to commit a crime
to change his appearance by shaving his beard. Also,
there is nothing improbable for a wife whose husband is
C attacked to have carefully noticed the face of the assailant
and thereafter to identify the same person even if his
beard has grown back and also to identify that person
from photograph. 'S' is said to be employed by the
"Institute of Engineering and Technology, Bhaddal" run
D by the "Khandi Friends Educational Trust", whose
founder Chairman was the deceased and the witness
used to see him on several occasions. There is no reason
to disbelieve her identification of 'R', who was also seen
from close quarters by her when he assaulted her
husband. [Para 20] [603-C, E-H; 604-A-B]

E
2.1. PW 19, had informed the police, after reading the
public appeal for clues. There is no suspicion on the
identity of this witness and his presence at the spot.
Merely because the witness did not approach the police
F immediately on the date of the incident but approached
the police after he had read the public notice; his
testimony is not liable to be thrown out. Though it was
suggested that this witness was connected with 'G'
(deceased) and PW1, there is no material on record to
G demonstrate this statement. No motive can be attributed
to this witness that he approached the police and gave
his deposition due to any relation with the 'G' (deceased)
or his wife or the prosecution. [Paras 21, 22] [604-C; 605-
C; 606-C-E]

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2.2. Contention was raised that PW 19 was not speaking the truth because the two assailants could not have escaped through a barbed wire fence. There is no substance in this contention, in view of the categorical assertion of PW 19/A –Draftsman, who has prepared a site plan, which is brought on record, that the height of the barbed wire was only three feet. Above the wire presumably there was only the hedge without any barbed wire. Moreover, there is no doubt that accused have escaped through the hedge since blood stained leaves were found from the hedge and a torn piece of cloth, presumably, the torn cloth of pocket of the shirt was found entangled in the barbed wire. [Para 23] [606-H; 607-A-C]

2.3. 'G' was assaulted when he was taking a walk in a park and that PW 19 saw the two assailants escape from the park on a scooter. These two were 'S' and 'R' as identified by PW1. The dagger and the scooter traced at the instance of the two accused were used in the crime. The dagger was stained with human blood. [Para 26] [608-A-B]

2.4. Minor inconsistent versions/discrepancies do not necessarily demolish the entire prosecution story, if it is otherwise found to be creditworthy. The embellishments in the statements of PW 19 do not constitute such contradictions which destroy the core of the prosecution case. In spite of the alleged omissions and embellishments the evidence of PW 19 remains within Zone of credibility. [Paras 27, 29 and 30] [608-H; 609-A, H; 610-A, F]

Sampath Kumar vs. Inspector of Police (2012) 4 SCC 124; 2012 (2) SCR 289; *Narayan Chetanram Chaudhary vs. State of Maharashtra* (2000) 8 SCC 457; 2000 (3) Suppl. SCR 104 *Sunil Kumar Sambhudayal Gupta (Dr.) vs. State of Maharashtra* (2010) 13 SCC 657; 2010 (15) SCR 452; *Raj*

A *Kumar Singh alias Raju Alias Batya vs. State of Rajasthan*
(2013) 5 SCC 722 – relied on.

B 3. The only other witness, who came close to the
scene of crime, is, PW 2, who stated that when he went
for walk in the nearby park on the material day, he heard
an alarm that “Mar Ditta Mar Ditta”. Though it was
contended that the prosecution story is false since PW
2 heard the words “Mar Ditta Mar Ditta” whereas PW1,
stated she had raised the alarm of “Bachao-Bachao” but
this discrepancy is not significant enough to discard the
veracity of the statements of either PW 1 or PW 2, since
in an emergency of this nature witnesses are not
expected to remember the precise words spoken by
them. Often what comes out from witnesses who have
witnessed a brutal murder is gibberish. The testimony is
not liable to be rejected on that ground alone. The Trial
Court and the High Court have recorded a correct finding
that ‘S’ and ‘R’ assaulted ‘G’ with knife, which caused his
death. [Para 31] [610-G; 611-A-D]

E 4. However, there is nothing on record to show that
either ‘S’ or ‘R’ have personal grudge or were on such
inimical terms with the deceased that they would want to
kill him. There is no robbery involved in the murder. There
appears to be no conflict between these two accused and
the deceased who was the Chairman of “Khandi Friends
Educational Trust”. ‘S’ seems to have been employed as
Construction Supervisor in the said Trust but nothing is
brought on record that he has any conflict with ‘G’.’ ‘R’
does not appear to have any connection whatsoever with
‘G’. From the entire evidence, it is clear that these two had
nothing to gain by eliminating ‘G’. They had no conflict
with him and they made no attempt to relieve him of any
property. If there was no personal motive in the sense of
animosity against ‘G’ then the only motive could have
been instigation by another, who had such a motive.
H [Para 32] [611-E-H]

5. 'B' was opposed to 'G'. To get the Chairmanship of the said Trust or in any case to remove 'G' was a sufficiently strong motive to have the opponent eliminated particularly when seen in the surrounding circumstances. Further, it appears that relationship between 'G' (deceased) and PW 1 on one hand and 'B' and his wife on the other hand was completely hostile. PW 1 has stated that 'B' and his wife used to give threats to her and 'G' (deceased) in the meetings for the Chairmanship of the said Trust. The accused 'B' and his wife had given threats to rape her daughter, who was studying in the same institute and that they could achieve it as their relatives are hardened criminals. They used to also say that they are "Gurdaspurias" and they could even murder opponent for getting the Chairmanship of this Institute. The threats forced PW 1, to ask her husband to withdraw their daughter from the said institute and to migrate her to some other institute, so that, 'B' could not do any harm to anybody but her husband did not agree. In cross-examination PW 1, clarified that she had clearly stated in the statement given to the police that 'B' had given a threat to rape her daughter. As regards, her statement that she had proposed her daughter to migrate to some other institute and when she was confronted with the absence of such statement in her examination-in-chief, she clarified that it is implied that after taking her from the said institute she was to be admitted to some other institute. The cross examination is not sufficient to dislodge the testimony of PW 1 that 'B' had an animosity of high degree against her husband and herself which became the motive for the murder in question. This inference is fortified by the fact that 'S' and 'R' did not appear to have any personal motive or grudge for murdering 'G'. [Para 33] [612-G-H; 613-A-G]

6. Significantly, 'B' had ensured his absence from Mohali on the material day and even from India by going

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A to Pakistan on 14.06.2003 and returned only on 22.06.2003 and in the meanwhile 'S' and 'R' stayed at various places near the scene of the crime in preparation of plan. In this regard, there is no reason to interfere with the findings of the High Court that the motive of 'B' is established to eliminate 'G' from the declarations that he would rape the daughter of the deceased, who was studying in the said institute and that he would gain control of the Institute in which huge finances were involved. It is not possible to determine the exact cause of the motive, or the exact factor which impelled the motive. When a high degree of animosity is established the existence of the motive may be taken to be established. [Para 34] [613-H; 614-A-C]

D 7. This is not a case where what is established is only the motive without any circumstantial evidence. What has been brought on record is the motive of 'B' along with other circumstantial evidence which is sufficient to convict the appellants. The evidence does not demonstrate instances of any personal motive borne by 'S' and 'R' against the deceased and the only reason why they killed the victim is that 'B' master minded the murder. The evidence of PW 1 and other prosecution witnesses is convincing, reliable and trustworthy. Consequently, there is no merit in the appeals. [Para 35 and 36] [614-G-H; 615-A-B]

F *Sampath Kumar vs. Inspector of Police* (2012) 4 SCC 124; 2012 (2) SCR 289; *Santosh Kumar Singh vs. State* (2010) 9 SCC 747; 2010 (13) SCR 901 *Rukia Begum vs. State of Karnataka* (2011) 4 SCC 779; 2011 (4) SCR 711 – distinguished.

G Case Law Reference:

	2012 (2) SCR 289	relied on	Para 27
	2000 (3) Suppl. SCR 104	relied on	Para 27
	2010 (15) SCR 452	relied on	Para 28
H	(2013) 5 SCC 722	relied on	Para 29

2012 (2) SCR 289 distinguished Para 35 A
2010 (13) SCR 901 distinguished Para 35
2011 (4) SCR 711 distinguished Para 35

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
No. 1110 of 2009. B

From the Judgment and Order dated 17.07.2008 of the
High Court of Punjab & Haryana at Chandigarh in Criminal
Appeal No. 334-DB of 2007

WITH C

Crl.A.Nos. 1112 and 1111 of 2009.

H. S. Phoolka, Mahavir Singh, Niraj Gupta, H.J.S.
Ahluwalia Gursimranjit Singh, Ms. Anupama Gupta, Amarjit
Singh Bedi, Amita Sharma, Neha Kapoor for the Appellant. D

V. Madhukar AAG, Paritosh Anil, Anvita Cowshish, Kuldip
Singh, Chandra Shekhar, Prabhat Kumar R., Prakash Gautam,
Ashok K. Mahajan for the Respondents.

The Judgment of the Court was delivered by. E

S. A. BOBDE, J. 1. By this common judgment, we
propose to dipose of these appeals as they arise out of the
same incident and involve common questions of law and facts.

2. These appeals are directed against the judgment and
order dated 17.07.2008 passed by the High Court of Punjab
and Haryana at -Chandigarh in Criminal Appeal No. 334-DB
of 2007 whereby the High Court affirmed conviction of the
appellants as held by the Addl. Sessions Judge, Rupnagar,
Punjab by convicting and sentencing accused – Bakhshish
Singh - appellant in Appeal No.1110 of 2009, Satbir Singh -
appellant in Appeal No.1111 of 2009 and Rachhpal Singh -
appellant in Appeal No.1112 of 2009 for imprisonment life
under Section 302 of the Indian Penal Code,1860 [for short
'IPC'] and fine in F.I.R. No. 271 dated June 21, 2003. F
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A 3. The charge was that Bakhshish Singh conspired with
 Satbir Singh and Rachhpal Singh to murder Gurcharan Singh.
 Bakhshish Singh was found guilty by the Addl. Sessions Judge,
 Rupnagar and sentenced to imprisonment for life for offences
 punishable under Section 302 read with Section 120-B of the
 B IPC. A fine of Rs. 5,000/- was also imposed upon him. In default
 of payment of fine, he was directed to undergo further rigorous
 imprisonment for a period of three months. Other appellants
 Satbir Singh and Rachhpal Singh were found guilty for offences
 punishable under Section 302 and Section 302 read with
 C Section 120-B of the IPC. Under Section 302 of the IPC, they
 were sentenced to imprisonment for life. A fine of Rs.1,000/-
 each was also imposed upon them and in default of payment
 of fine; they were further directed to undergo rigorous
 imprisonment for a period of one month. Under Section 302
 D read with Section 120-B of the IPC they were sentenced to
 imprisonment for life and a fine of Rs.1,000/- each. In default
 of payment of fine, they were further directed to undergo
 rigorous imprisonment for a period of one month. However, it
 was made clear that all sentences shall run concurrently.

E 4. According to the prosecution, on June 21, 2003 at
 about 5.30 am, Gurcharan Singh went to the park adjoining his
 house for a morning walk. Soon thereafter his wife – Kulwinder
 Kaur, PW 1, joined him. She was 20/25 steps behind her
 husband. When Gurcharan Singh reached near the main gate
 F of the park, two tall young men attacked Gurcharan Singh with
 daggers. They inflicted injuries on his chest and neck. He cried
 for help. His wife - Kulwinder Kaur also cried for help. The two
 men stabbed Gurcharan Singh barbarically and fled the scene.
 The said assailants are appellants - Satbir Singh and Rachhpal
 G Singh.

5. Hardev Singh, PW-2, a neighbour of Gurcharan Singh
 heard the cry of Kulwinder Kaur, PW 1, and reached the spot
 and arranged a vehicle and removed Gurcharan Singh to the
 Fortis Hospital at Mohali. The doctors who examined him at the
 H hospital declared him dead.

6. At the Fortis Hospital, Gurcharan Singh was attended by PW-7 - Dr. Kamaljit Chachal and PW-8 - Dr. Sanjay Ahulwalia. They noticed multiple stab injuries on the dead body of Gurcharan Singh. They confirmed his death as having been occurred at 6.00 am on June 21, 2003. The cause of death was given as multiple stab injuries.

7. On receipt of intimation, sub-inspector Ramandeep Singh (P.W. 21) reached the Fortis Hospital and recorded statement of Kulwinder Kaur (PW 1). He made his endorsement over it and sent it to the Police Station, Mohali. The complainant, Kulwinder Kaur, PW 1, apart from reporting the incident to sub-inspector Ramandeep Singh (P.W. 21) asserted that she could identify the assailants on seeing them. Sub-inspector Ramandeep Singh (P.W.21) recorded statements of the witnesses and sent the dead body of Gurcharan Singh to the Civil Hospital, Mohali, for post mortem examination.

8. Thereafter, sub-inspector Ramandeep Singh (P.W. 21) accompanied by Kulwinder Kaur, PW 1, went to the place of occurrence and inspected the spot. He collected blood-stained earth from there and took into his possession two buttons lying nearby. He also took into his possession blood-stained dagger (Exhibit P.2) from the hedge of the park and some leaves from the nearby hedge which were blood-stained. Alongside the hedge, there was a barbed wire and a piece of cloth was found entangled therein. That piece of cloth appeared to be a part of the pocket of a shirt of a man. It was blood stained and was taken into possession. Since Kulwinder Kaur, PW 1, expressed her suspicion regarding the involvement of the Bakhshish -- Singh, sub-inspector Ramandeep Singh (P.W. 21), raided his house. It was found, that he was away to Pakistan.

9. The post mortem examination revealed as many as 17 wounds on the chest and neck of the deceased Gurcharan Singh. Dr. Navneet Kaur (PW 8) conducted post mortem examination on the dead body of Gurcharan Singh at Civil

A Hospital, Mohali. Later, the Doctor at the request of the police gave her opinion that the injuries were inflicted by a sharp edged weapon.

B 10. On June 22, 2003, sub-Inspector Ramandeep Singh (PW 21) sent a notice under Section 160 of the Code of Criminal Procedure [hereinafter referred to as "the Code"] to Bakhshish Singh. The said notice was served upon Bakhshish Singh at the Wagha Border, immediately on his entering India from Pakistan. Sub-inspector Ramandeep Singh made inquiries from him and asked him to meet on the next day. However, he
C did not turn up.

D 11. Since there was no clue regarding the assailants, a notice was published in the newspaper of the area on June 22, 2003 calling upon public in general to disclose if they had any
E clue about the incident. Upon reading the said notice, Narinder Banwait (PW 19) met sub-inspector Ramandeep Singh (P.W. 21) on June 23, 2003. He disclosed that on the material day, when he came near the hedge of the park in -question, he saw two young men running towards Phase XI, Mohali in suspicious
F circumstances. One of them had a cut mark on his arm; both of them had blood stains on their clothes; one of them was having a blood stained dagger type knife in his hand; both of them jumped the hedge of the park and went away on a Bajaj Chetak Scooter bearing registration No. CH-01-D-4465, which
G was parked near the road outside the park. The police eventually found that said scooter was registered in the name of one Rakesh Kumar (PW -5), who stated that he had sold the same to accused/appellant Satbir Singh through Sirikant Bhandari (PW -3), who was doing the business of sale-purchase of vehicles. The sale of scooter to Satbir Singh was made against the payment receipt (Exhibit P.W. 4/B) and delivery receipt (Exhibit P.W. 4/C), which carried signatures of Satbir Singh.

H 12. According to the prosecution on July 03, 2003 a call was received by Deputy Superintendent of Police – Daljit Singh

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(PW 20) from Amar Singh (PW 13), to the effect that appellants Satbir Singh and Rachhpal Singh were present at his house with him and that they had on June 21, 2003 murdered Gurcharan Singh at the instance of Bakhshish Singh and that he had requested them to surrender before the police as the police was looking for them. These two appellants were formally arrested by sub-inspector Ramandeep Singh (P.W. 21) on July 03, 2003.

13. Appellant/accused - Bakhshish Singh was also arrested on July 03, 2003, from the Bus Stand at Ropar after sub-inspector Ramandeep Singh received information that he was there.

14. On July 04, 2003, sub-inspector Ramandeep Singh (P.W. 21) produced all the accused before the Ilaqa Magistrate. Satbir Singh and Rachhpal Singh applied before the Ilaqa Magistrate that they are not willing to their identification parade. Hence the Ilaqa Magistrate did not hold their identification parade and passed the order dated July 04, 2003 in this regard.

15. On July 05, 2003, Rachhpal Singh made a disclosure statement to the effect that he had concealed blood-stained dagger used by him in the crime and his blood-stained clothes near the under-construction Railway Bridge in the area of Village Chilla. In consequence of disclosure statement, the police party led to said Railway Bridge and recovered a blood-stained dagger (Exhibit P.W. 19/D) and a blood-stained shirt (Exhibit P.W. 19/G) and trouser (Exhibit P.W. 19/F) from the disclosed place. These articles were found wrapped in a polythene bag and kept beneath the earth. These articles were taken into possession vide seizure memo (Exhibit P.W. 19/E), attested by Narinder Banwait (PW 19) and Assistant sub-Inspector Iqbal Singh.

16. Accused - Satbir Singh also made a disclosure statement, as a consequence of which, a Bajaj Chetak scooter

A bearing registration No. CH-01-D-4465 and a blood-stained shirt (Exhibit P.W. 19/L), which was lying in the bushes near the drain beside the road that connects Papri and Manauli were recovered. His driving licence and visiting cards from the boot of the scooter were also recovered. These articles along with
 B scooter were taken into possession vide seizure memo Exhibit P.W. 19/H.

C 17. The blood-stained earth and dagger recovered from the place of occurrence were sent to the Forensic Science Laboratory. Upon perusing the report of the Forensic Science Laboratory it was found that the dagger and the earth were stained with human blood. The dagger and the clothes recovered at the instance of Rachhpal Singh were also found to be blood-stained with human blood, vide report Exhibit P.A/
 D 4.

E 18. At the trial, the prosecution examined as many as 21 witnesses. After completion of the prosecution evidence, statements of the accused were recorded under Section 313 of the Code. Appellants/accused pleaded their innocence.

F 19. The case of Satbir Singh and Rachhpal Singh, who had assailed Gurcharan Singh, can be taken up separately from that of accused Bakhshish Singh, who is said to be the mastermind of the crime. Satbir Singh is a nephew of Bakhshish Singh. Rachhpal Singh is an accomplice of Satbir Singh having no apparent connection with Bakhshish Singh. The Trial Court and High Court have rendered a clear finding that these two killed Gurcharan Singh in the park. The courts below have rendered a finding on the basis of recovery and on the evidence of Kulwinder Kaur, PW 1, who was an eye witness.
 G Kulwinder Kaur, PW 1, in her deposition has stated that when she was walking about 20/25 steps behind her husband, two boys "clean shaven with trimmed beard" came from the main gate and assaulted her husband with a dagger. They were about 26/27 years old. She raised an alarm "Bachao-Bachao".
 H The said two boys jumped over the hedge and ran away. In

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court, she stated that the said two boys are present in court and she can identify them as they are the same persons who stabbed her husband. She stated that motive may be the result of a conspiracy entered by Bakhshish Singh along with his wife – Hardev Kaur to get the Chairman Ship of the “Khandi Friends Educational Trust” of which Gurcharan Singh was the Chairman.

20. We may now turn to the statements of the sole eyewitness of the assault, Kulwinder Kaur, PW 1, the wife of the deceased. She has described the incident with sufficient clarity. She stated that she used to accompany her husband for the morning walk. On the material day, she started little later than him but followed him to the park. Later, when she was about 20/25 steps behind his husband two boys came inside the park from the main gate and assaulted his husband. Both the said boys were with trimmed beard. Her actual description is “clean shaven with a trimmed beard”. It must be understood to mean as conveying persons without a full grown beard. She and her husband raised an alarm “Bachao-Bachao”. She remembers that the dagger was lying there. She has unequivocally identified the said boys, who were present in the court as Satbir Singh and the other as his friend. As regards her identification of Satbir Singh, it was argued that she was confused. The reason behind it might be that when she had identified him in a photograph he was having full grown beard. According to the learned counsel for the appellants, her description of Satbir Singh was that he had a trimmed beard but in the court when he was identified by Kulwinder Kaur, PW 1; he did not have a trimmed beard but had a full grown beard. This contention must be rejected since it would appear quite natural for a person when he is about to commit a crime to change his appearance by shaving his beard. Also, there is nothing improbable for a wife whose husband is attacked to have carefully noticed the face of the assailant and thereafter to identify the same person even if his beard has grown back and also to identify that person from photograph. We may mention that Satbir Singh is said to

A be employed by the “**Institute of Engineering and Technology, Bhaddal**” run by the trust known as “**Khandi Friends Educational Trust**”, whose founder Chairman was Gurcharan Singh (deceased) and the witness used to see him on several occasions. We also see no reason to disbelieve her
 B identification of Rachhpal Singh, who was also seen from close quarters by her when he assaulted her husband.

21. Narinder Banwait (PW 19), who had informed the police, after reading the public appeal for clues, stated in his
 C evidence that he had gone to that park for a morning walk on 21st June, 2003. When he was outside the park, he saw two young men running towards Phase-XI Mohali, in suspicious
 D circumstances. One of them was 32/33 years and the other was of the age of 28 years. One of them was having a cut-mark on his arm. Their clothes were stained with blood. One of them had
 E a dagger/knife in his hand, which was also blood stained. They jumped the bushes in his presence and fled away on a Bajaj Chetak scooter bearing registration No. CH-01-D-4465, which was parked near the road. He identified them in the court. He stated that he read a public notice in the newspaper issued by
 F S.P. Police requesting the public for any clue for the murder of Gurcharan Singh and then he approached the police and got his statement recorded by the police. He further stated that he signed the disclosure statement of Satbir Singh and went to the place of occurrence as disclosed by the accused along with
 G the police. He also deposed to the disclosure made by Rachhpal Singh and the recovery of one dagger and blood stained clothes. He identified the items recovered in the court. He then deposed to the recovery of Bajaj Chetak Scooter bearing registration No. CH-01-D-4465 of blue colour. He also
 H deposed that Satbir Singh led the police party to the disclosed place and got recovery of a driving licence, the sale letter regarding the purchase of the scooter and one visiting card of some Hotel from the dickey of the scooter along with one blood-stained shirt, which was torn from the left side. He identified scooter and other articles also. He, however, stated that both

the accused were saying that "Kanda Kad Ditta Hai of Chairman and Chacha is not present in India and they should go to Chachi to take the money". At this juncture, we may note one of the submissions made by Mr. H.S. Phoolka, learned senior counsel, appearing for Bakhshish Singh – appellant/accused in Criminal Appeal No. 1110/2009 that in his statement with the police, this witness has got recorded his name as Maninder Banwait and later in the court as Narinder Banwait. This is undoubtedly so, but we do not consider this discrepancy significant since it does not cast any suspicion on the identity of the witness and his presence at the spot, particularly in view of his explanation.

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22. Several contradictions occurring in the depositions of this witness and in his statement to the police have been referred to by Mr. H.S. Phoolka, learned senior counsel. It was pointed out that he stated that he had been taken to the police station, whereas the investigating officer denied that this witness was taken to the police station. According to the learned counsel for the appellants, Narinder Banwait (PW 19) has stated in his deposition that he stayed in the police station for 15/20 minutes, after the occurrence i.e. when he had gone to lodge his report with the police. Whereas the investigating officer had stated that on June 23, 2003, Narinder Banwait (PW 19), stayed with him for 1 ½ hours and he did not produce Narinder Banwait (PW 19) before any of his senior officers in the police station on that day. It was submitted that it was a major contradiction. Having gone through the evidence, we find that the statement of the said witness is that he had been to the police station once, but due to the lapse of the time, he cannot remember the date and time. Thereafter, he stated that on a subsequent visit to the police station he stayed there for 15/20 minutes. Apart from the fact that the alleged contradiction is not regarding June 23, 2003 visit but about a subsequent visit, we do not consider this contradiction significant enough to affect the credibility of this witness which is otherwise corroborated. He further submitted that Narinder Banwait (PW 19) -has falsely

A stated that these two accused while running away stated that
"Kanda Kad Ditta Hai of Chairman and Chacha is not present
in India and they should go to Chachi to take the money".
According to the learned senior counsel this witness is trying
to rope in Bakhshish Singh in a conspiracy, who is not guilty
B because he was in Pakistan on the date of incident. However,
on going through the evidence on record, we do not find that
these contradictions have shaken the credibility of the witness
in regard to his presence on the spot outside the park or that
he saw the accused running away. These facts have been
C amply corroborated by the evidence of Kulwinder Kaur, PW 1
and the recoveries effected by the disclosure made by the said
accused. We are also not inclined to accept the submission
that merely because the witness did not approach the police
immediately on the date of the incident but approached the
D police after he had read the public notice; his testimony is liable
to be thrown out. Though it was suggested that this witness was
connected with Gurcharan Singh (deceased) and Kulwinder
Kaur, PW 1, there is no material on record to demonstrate this
statement. No motive can be attributed to this witness that he
E approached the police and gave his deposition due to any
relation with the Gurcharan Singh (deceased) or his wife or the
prosecution.

23. It was urged by Mr. Mahavir Singh, learned senior
counsel appearing for Satbir Singh and Rachhpal Singh -
F accused/appellants in Criminal Appeal Nos. 1111 of 2009 and
1112 of 2009 respectively that the Narinder Banwait (PW 19)
is not speaking the truth that the assailants escaped through
the hedge as in his statement he deposed that the hedge of
the park at some points was 5 ½ feet/6 feet tall and that barbed
G wire was also passing through the hedge and that he did not
re-call whether barbed wire was there or not at the place where
he was present, whereas PW 19/A – Gian Chand, Draftsman,
in his deposition has stated that there were three lines of
barbed wire which is shown in the site plan, prepared by him.
H As such, Narinder Banwait (PW 19) is not speaking the truth

because the two assailants could not have escaped through a barbed wire fence. There is no substance in this contention, in view of the categorical assertion of PW 19/A – Gian Chand, Draftsman, who has prepared a site plan, which is brought on record, that the height of the barbed wire was only three feet. Above the wire presumably there was only the hedge without any barbed wire. Moreover, there is no doubt that accused have escaped through the hedge since blood stained leaves were found from the hedge and a torn piece of cloth, presumably, the torn cloth of pocket of the shirt was found entangled in the barbed wire.

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24. It was further urged that the dagger which was produced in court could not have been used as an instrument for the crime because the dagger was not shown to the doctor during post mortem -examination and the doctor has only stated that the injuries could have been caused through the sharp edged weapon given in court. We find from the testimony of the doctor that he deposed that the injuries were caused by a sharp edged weapon, which is quite consistent with the use of dagger for the offence.

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25. It was further submitted that the prosecution case is suspicious because there was a delay in sending clothes and dagger to the Forensic Science Laboratory and that even otherwise the report of the Forensic Science Laboratory shows that the dagger contained human blood but without referring to any blood group. Upon perusal of the record, we find that submission that the blood group was not ascertained and therefore it was not the blood of the deceased, was not made before the courts below. In any case, this does not cast any doubt on the prosecution case which has been proved from the evidence and the findings of the courts below.

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26. It was also urged that there is some overwriting on the bundle by which the items were deposited in the court and the delay in depositing the items. We have examined the records carefully. Though there is something incongruous in it but that

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- A is not sufficient to dislodge the substance of the prosecution case which is based on evidence properly adduced. There is no doubt that Gurcharan Singh was assaulted when he was taking a walk in the park and that Narinder Banwait, PW 19, saw the two assailants escape from the park on a scooter.
- B These two were Satbir Singh and Rachhpal Singh as identified by Kulwinder Kaur. The dagger and the scooter traced at the instance of the two accused were used in the crime. The dagger was stained with human blood. So also the alleged attempt of the police authorities to induce Rachhpal Singh to become an approver does not discredit the prosecution version of an incidence which inspires confidence before it. In any case, it is not necessary to consider that aspect any further.

27. It was next urged that the said witness stated several things before the court which were not stated under Section 161 of the Code such as (i) "Kanda Kad Ditta Hai of Chairman and Chacha is not present in India and they should go to Chachi to take the money"; (ii) The Chairman of the Institute was Gurcharan Singh; (iii) Bakhshish Singh disclosed that they had political rivalry with the Chairman, namely, Gurcharan Singh and it was disclosed by Bakhshish Singh that Rs. 20,000/- each was paid to Satbir Singh and Rachhpal Singh for the murder of Chairman, Gurcharan Singh; (iv) Persons who were seen running away by Narinder Banwait (PW 19) were running away in suspicious circumstances; 'suspicious circumstances' was not mentioned under 161 statement (v) the said two persons had passed -and he was just $\frac{3}{4}$ feet away from them; 'distance' was not mentioned under 161 statement; (vi) on seeing the same I got scared; 'factum of getting scared' was not mentioned under 161 statement; (vii) Bakhshish Singh disclosed that murder was to be executed only when Bakhshish Singh would be abroad. These undoubtedly seem to be embellishments by this witness. The question is whether these embellishments are such as to destroy core of the prosecution story, which is otherwise found to have been established. This Court in several cases observed that minor inconsistent

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versions/discrepancies do not necessarily demolish the entire prosecution story, if it is otherwise found to be creditworthy. In *Sampath Kumar v. Inspector of Police* : (2012) 4 SCC 124, this Court after scrutinizing several earlier judgments relied upon the observations in *Narayan Chetanram Chaudhary v. State of Maharashtra* : (2000) 8 SCC 457 to the following effect:

“42. Only such omissions which amount to contradiction in material particulars can be used to discredit the testimony of the witness. The omission in the police statement by itself would not necessarily render the testimony of witness unreliable. When the version given by the witness in the court is different in material particulars from that disclosed in his earlier statements, the case of the prosecution becomes doubtful and not otherwise. Minor contradictions are bound to appear in the statements of truthful witnesses as memory sometimes plays false and the sense of observation differ from person to person.”

28. In *Sunil Kumar Sambhudaya Gupta (Dr.) v. State of Maharashtra* : (2010) 13 SCC 657, this Court observed as follows:

“30. While appreciating the evidence, the court has to take into consideration whether the contradictions/omissions had been of such magnitude that they may materially affect the trial. Minor contradictions, inconsistencies, embellishments or improvements on trivial matters without effecting the core of the prosecution case should not be made a ground to reject the evidence in its entirety. The trial court, after going through the entire evidence, must form an opinion about the credibility of the witnesses and the appellate court in normal course would not be justified in reviewing the same again without justifiable reasons. (Vide *State v. Saravanan*) (2008)17SCC 587”

29. The embellishments in the statements of Narinder Banwait (PW. 19) referred to above, in our view do not

A constitute such contradictions which destroy the core of the prosecution case as this Court in the case of *Raj Kumar Singh alias Raju Alias Batya Vs. State Of Rajasthan* : (2013) 5 SCC 722 at page 740 has observed as under:

B “ It is a settled legal proposition that, while appreciating
 C the evidence of a witness, minor discrepancies on trivial
 D matters, which do not affect the core of the case of the
 E prosecution, must not prompt the court to reject the
 evidence thus provided, in its entirety. The irrelevant details
 which do not in any way corrode the credibility of a witness,
 cannot be labeled as omissions or contradictions. Therefore, the courts must be cautious and very particular,
 in their exercise of appreciating evidence. The approach
 to be adopted is, if the evidence of a witness is read in
 its entirety, and the same appears to have in it, a ring of
 truth, then it may become necessary for the court to
 scrutinize the evidence more particularly, keeping in mind
 the deficiencies, drawbacks and infirmities pointed out in
 the said evidence as a whole, and evaluate them
 separately, to determine whether the same are completely
 against the nature of the evidence provided by the
 witnesses, and whether the validity of such evidence is
 shaken by virtue of such evaluation, rendering it unworthy
 of belief.”

F 30. We are of the view that in spite of alleged omissions and embellishments the evidence of Narinder Banwait (PW 19) remains within zone of credibility.

G 31. The only other witness, who came close to the scene of crime, is Hardev Singh, PW 2, who stated that when he went for walk in the nearby park on the material day, he heard an alarm that “Mar Ditta Mar Ditta”. He then went inside the park and saw Kulwinder Kaur, PW 1, standing there and Gurcharan Singh lying in an injured condition on the ground. He stated that Kulwinder Kaur, PW 1, told him that two persons inflicted knife
 H blows on Gurcharan Singh and fled away. He then stated that

he called a neighbour, who came with his City Honda car and took Gurcharan Singh to the Fortis Hospital, Mohali. It was next contended that the prosecution story is obviously false since Hardev Singh; PW 2 heard the words "Mar Ditta Mar Ditta" whereas Kulwinder Kaur, PW 1, stated she had raised the alarm of "Bachao-Bachao". We do not consider this discrepancy as significant enough to discard the veracity of the statements of either Kulwinder Kaur, PW 1 or Hardev Singh, PW 2, since in an emergency of this nature witnesses are not expected to remember the precise words spoken by them. Often what comes out from witnesses who have witnessed a brutal murder is gibberish. The testimony is not liable to be rejected on that ground alone. We are satisfied that the Trial Court and the High Court have recorded a correct finding that Satbir Singh and Rachhpal Singh assaulted Gurcharan Singh with knife, which caused his death.

32. The question regarding the motive of Satbir Singh and Rachhpal Singh to murder Gurcharan Singh has a great significance in this case. There is nothing on record to show that either Satbir Singh or Rachhpal Singh have personal grudge or were on such inimical terms with the deceased that they would want to kill him. There is no robbery involved in the murder. There appears to be no conflict between these two accused and the deceased Gurcharan Singh, who was the Chairman of "Khandi Friends Educational Trust". Satbir Singh seems to have been employed as Construction Supervisor in the said Trust but nothing is brought on record that he has any conflict with Gurcharan Singh. Rachhpal Singh does not appear to have any connection whatsoever with Gurcharan Singh. From the entire evidence, it is clear that these two had nothing to gain by eliminating Gurcharan Singh. They had no conflict with him and they made no attempt to relieve him of any property. The question is: then why did they kill him? If there was no personal motive in the sense of animosity against Gurcharan Singh then the only motive could have been instigation by another, who had such a motive. According to the

A prosecution the only person who had a motive sufficient to
warrant killing of Gurcharan Singh was the appellant Bakhshish
Singh, who was undoubtedly away to Pakistan on the day of
murder June 21, 2003. In fact his being away on the fateful day
is itself creates a doubt about his complicity in the crime. The
B thrust of the prosecution is to prove that in order to eliminate
Gurcharan Singh and to make free the Trust from the control of
Gurcharan Singh; Bakhshish Singh employed his brother's son
Satbir Singh and his friend Rachhpal Singh. "**Khandi Friends
Educational Trust**" appears to have been the bone of
C contention which runs ~~the~~ "**Institute of Engineering and
Technology, Bhaddal**" and it appears that annual turnover of
the said Trust was in the region of about 20 crores. According
to the prosecution, Gurcharan Singh was the founder Chairman
of the said Trust and there were 8 Trustees/Members of the
D Trust, including Kulwinder Kaur, PW 1, Bakhshish Singh –
accused/appellant and his wife Hardev Kaur. Bakhshish Singh
- accused/appellant, wanted to become Chairman of the said
trust and often used to give threats to -Kulwinder Kaur, PW 1
and her husband Gurcharan Singh (deceased). Guneet Kaur,
E daughter of Kulwinder Kaur, PW 1, was also studying in the said
institute in the year 2002. An election was held to the post of
Chairmanship of the said Trust, in the year 2002, in which
Gurcharan Singh was elected as Chairman whereas appellant
Bakhshish Singh was not elected to any of the offices of the
Trust and therefore he was annoyed with Gurcharan Singh.

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33. We have perused the record of the proceedings of
Election. The election proceedings show that Bakhshish Singh
had objected to the said proceedings on the ground that it was
illegal. We are not inclined to go into the correctness of his
G objections. Suffice it to say that Bakhshish Singh was opposed
to Gurcharan Singh. To get the Chairmanship of the said Trust
or in any case to remove Gurcharan Singh was a sufficiently
strong motive to have the opponent eliminated particularly when
seen in the surrounding circumstances. Further, it appears that
H relationship between Gurcharan Singh (deceased) and

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Kulwinder Kaur, PW 1 on one hand and Bakhshish Singh and his wife - Hardev Kaur on the other hand was completely hostile. Kulwinder Kaur, PW 1 has stated that Bakhshish Singh and his wife Hardev Kaur used to give threats to her and Gurcharan Singh (deceased) in the meetings for the Chairmanship of the said Trust. The accused Bakhshish Singh and his wife Hardev Kaur had given threats to rape her daughter, who was studying in the same institute and that they could achieve it as their relatives are hardened criminals. They used to also say that they are "Gurdaspurias" and they could even murder opponent for getting the Chairmanship of this Institute. The threats forced Kulwinder Kaur, PW 1, to ask her husband to withdraw their daughter from the said institute and to migrate her to some other institute, so that, Bakhshish Singh could not do any harm to anybody but her husband did not agree. In cross-examination, Kulwinder Kaur, PW 1, was asked whether she had told the police that Hardev Kaur had also given a threat to rape her daughter since she had apparently used the word 'rape', she clarified that she had clearly stated in the statement given to the police that Bakhshish Singh had given a threat to rape her daughter. As regards, her statement that she had proposed her daughter to migrate to some other institute and when she was confronted with the absence of such statement in her examination-in-chief, she clarified that it is implied that after taking her from the said institute she was to be admitted to some other institute. We find that the cross examination is not sufficient to dislodge the testimony of Kulwinder Kaur, PW 1 that Bakhshish Singh had an animosity of high degree against her husband and herself which became the motive for the murder in question. This inference is fortified by the fact that Satbir Singh and Rachhpal Singh did not appear to have any personal motive or grudge for murdering -Gurcharan Singh, as observed earlier. Satbir Singh, admittedly was the nephew of Bakhshish Singh.

34. It is also significant that Bakhshish Singh had ensured his absence from Mohali on the material day and even from

- A India by going to Pakistan on 14.06.2003 and returned only on 22.06.2003 and in the meanwhile Satbir Singh and Rachhpal Singh stayed at various places near the scene of the crime in preparation of plan. In this regard, we find no reason to interfere with the findings of the High Court that the motive of Bakhshish Singh is established to eliminate Gurcharan Singh from the declarations that he would rape Guneet Kaur, daughter of the deceased, who was studying in the said institute and that he would gain control of the Institute in which huge finances were involved. It is not possible to determine the exact cause of the motive, or the exact factor which impelled the motive. When a high degree of animosity is established the existence of the motive may be taken to be established.

35. Learned counsel for the appellants relied upon the Judgment of this Court in *Sampath Kumar* (supra). According to the learned counsel, it is a settled law as held in *Santosh Kumar Singh v. State*: (2010) 9 SCC 747 and *Rukia Begum v. State of Karnataka*: (2011) 4 SCC 779 approved in *Sampath Kumar* (supra) that motive alone can hardly be a ground for conviction and in absence of any other circumstantial evidence, motive alone would not be sufficient to convict an accused. Mr. H.S. Phoolka, learned senior counsel appearing for Bakhshish Singh submitted that at the most the prosecution has placed on record the alleged motive of Bakhshish Singh by pointing out his animosity against Gurcharan Singh. That is, however, not sufficient to bring home the guilt of crime of murder against him. It is not possible to accept this contention since this is not a case where what is established is only the motive without any circumstantial evidence as in the cases referred to above. What has been brought on record is the motive of Bakhshish Singh along with other circumstantial evidence referred to above, which in our view is sufficient to convict the appellants. As observed earlier, the evidence does not demonstrate instances of any personal motive borne by Satbir Singh and Rachhpal Singh against the deceased Gurcharan Singh and the only reason why they killed Gurcharan

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Singh is that Bakhshish Singh master minded the murder. A

36. On reading the evidence of the Kulwinder Kaur, PW 1 and other prosecution witnesses we find the same to be convincing, reliable and trustworthy. We find no reason to disbelieve the aforesaid statements and consequently, we find no merit in these appeals, which are dismissed accordingly. B

37. Bakhshish Singh, appellant in Criminal Appeal No. 1110 of 2009 is on bail. His bail bonds stand cancelled. Bakhshish Singh is directed to surrender before the learned Sessions Judge, Rupnagar (Punjab) to undergo the remaining period of sentence. If he does not surrender, the Trial Court is directed to take appropriate action in the matter in accordance with law. C

Bibhuti Bhushan Bose

Appeals dismissed.