

# Surjeet Singh vs State Of Haryana on 7 February, 2025

**Author: Gurvinder Singh Gill**

**Bench: Gurvinder Singh Gill, Jasjit Singh Bedi**

CRA-D-222-DB-2005 (O&M) &  
CRA-S-394-SB-2005  
2005 (O&M)

(1)

In The High Court for the States of Punjab and Haryana  
At Chandigarh

1.

CR  
CRA-D-222-DB-2005 (O&M)

Surjeet Singh

Versus

... Ap

State of Haryana

... Re

2.

CRA  
CRA-S-394-SB-2005 (O&M)

Sumer Singh & others

Versus

... Ap

State of Haryana

... Re

Date of Decision

Decision:- 07.02.

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL  
HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:

Mr. Vinod Ghai, Senior Advocate, with  
Mr. Arnav Ghai, Advocate, for the appellant/s.

Mr. Ranvir Singh Arya, Addl. AG, Haryana.

GURVINDER SINGH GILL, J.

J

1. This is judgment shall dispose of above-mentioned above mentioned two appeals arising out of judgment dated 27.01.2005 and order of sentence dated 29.01.2005 passed by learned Additional Sessions Judge, II, Jind Jind. While CRA-D-

222-DB-2005 2005 has been filed on behalf of appellant - Surjeet Singh challenging his conviction for offence punishable punishable under Section 302 IPC, CRA-S-394 394-SB-2005 2005 has been filed by Sumer Singh, Dilawar @ Dalel CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) Singh and Om Parkash challenging their conviction for offence punishable under Section 323 IPC. However, since the appellants Sumer Singh and Dilawar @ Dalel Singh have expired, proceedings qua them stand abated vide order dated 31.01.2025. As such, CRA CRA-S-394-SB-2005 survives only qua appellant No.3 - Om Parkash.

2. The matter arises out of FIR No.516 No.516 dated 21.11.2001 registered at Police Station Safidon, under Sections 302, 307, 323, 148, 149 IPC and Sections 24, 54, 59 of the Arms Act (Ex.P-1A), at the instance of Jaswant Singh Singh. It is the case of prosecution that on 21.11.2001, pursuant to receipt of intimation from the CHC, C Safidon regarding admission of Krishan Krishan, Jaswant Singh, Nand Ram, Dhanpati, Kamla and Angoori in injured condition,, the police visited the hospital and recorded the statement of Jaswant Singh (Ex.P1) (Ex.P leading to lodging of FIR FIR. The complainant Jaswant Singh alleged that there had been altercation between him and Hawa Singh, Satbir, Dharam Singh, Sumer Singh and Surjeet during the last several days with regard to 'dol' (boundary made by raising soil) of the fields. On 21.01.2001, the respectable of the village had got the matter compromised where the complainant alongwith Nand Ram Ram, Krishan and Om Parkash were present and on the other side side, Hawa Singh, Dharam Singh, Sumer Singh and Surjeet were there. The Panchayat was held till 3:00 PM and a compromise was arrived at, which was yet to be reduced into writing. However, Hawa Singh and Surjeet walked off from Panchayat while saying that they do not accept the compromise and went towards their houses. After a short while while, Hawa Singh armed with CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) gandassa came to the chowk outside Darwaja (entrance of house) of Krishan and raised a lalkara exhorting his companions to teach Jaswant Singh a lesson for straightening the 'dol' ' ' and upon which Dilawar @ Dalel Singh armed with gandassa,, Om Parkash armed with gandassa, Dharam Singh armed with gun, Surjeet armed with gun, Sumer Singh armed with gandassa,, Dharam Pal armed with gandassa came there. They had all come with a common object and attacked them. Dilawar @ Dalel Singh gave blows with gandassa while using it like a stick on left side of head, left arm and fingers of right hand of complainant Jaswant Singh.. Om Parkash gave a blow with gandassa on the head of Nand Ram and also gave thrust-wise thrust blows on his chin and mouth. Surjeet fired a shot from his double barrel licensed gun at Krishan hitting him on his abdomen. Upon alarm being raised, complainant's wife Angoori, Kamla wife of Om Parkash and Dhanpati wife of Prem reached at the place of occurrence. Hawa Singh inflicted 2 injuries juries on the head of Angoori with the help of gandassa and also gave a blow of gandassa while using it like a stick on her neck and left elbow. Sumer Singh gave a blow with gandassa on the left wrist of Kamla

and another blow on her toe by using the gandassa assa like a stick. Dharam Singh fired repeatedly in the air with his gun. Dharam Pal inflicted injuries with gandassa on the forehead and the left hand of Dhanpati. The complainant raised alarm. The complainant further stated that Randhir, Chatru and Phool Singh, who had been present in the Panchayat,, had witnessed the occurrence and rescued them otherwise the assailants would have inflicted more injuries to them. CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) Thereafter, the assailants fled from the spot with their respective weapons. The complainant complainant and other injured were taken to hospital. The complainant further stated therein that they had also inflicted injuries to the assailants in their self-defence.

self Despite medical treatment having been made available to Krishan, he could not survive aand succumbed to his injuries on 22.11.2001.

3. Pursuant to lodging of FIR, the matter was investigated by the police during the course of which inquest report was prepared. The police visited the place of occurrence and lifted blood stained soil and also one empty cartridge, which were w taken into possession vide recovery memos (Ex.PE PE & PF).

PF Rough sitee plan of the place of occurrence was prepared. Statements of the witnesses were recorded in terms of Section 161 Cr.P.C Cr.P.C..

The medical record pertaining to the injured and of the deceased was collected. It is the case of the prosecution that pursuant to the arrest of the accused on 23.11.2001, 23.11.2001, they were interrogated. Accused - Dharampal pursuant to his disclosure statement statement Ex.PGG got recovered a gandassa concealed by him in his residential house. Accused - Sumer Singh pursuant to his disclosure statement Ex.PHH got recovered a gandassa concealed by him in the store-room store room of his house. Accused - Dilawar @ Dalel Singh pursuant ant to his disclosure statement Ex.PJJ got recovered a gandassa concealed by him underneath a bed in his residential house. Accused - Surjeet in his disclosure statement Ex.PKK stated that the gun used by him belongs to his uncle Sumer Singh, which he had concealed in a bed lying in the room of his house and got the same recovered. CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M)

4. Upon conclusion of investigation, challan was presented against Dharampal, Sumer Singh, Surjeet Surj t Singh and Dilawar @ Dalel Singh in the Court of Sub Divisional Judicial Magistrate, Safidon (Jind) on 15.02.2002, who committed the case to the Court of Sessions vide order dated 02.03.2002. Learned Additional Sessions Judge Judge, Jind framed charges against the said 4 accused for offences punishable under Section 302/34 IPC and Section 323/34 IPC vide order dated 08.04.2002. Surjeet Singh was additionally charged for offence under Section 27 of the Arms Act. Sumer Singh was also additionally charged for an offence under Section 29 of the Arms Act. After some prosecution evidence had been led, the prosecution moved an application un under Section 319 Cr.P.C.

seeking summoning of additional accused namely Om Parkash, Dharam Singh and Hawa Singh, which was accepted by the trial Court vide order dated 13.07.2002 and consequently, an amended

charge charge-sheet was framed against all the 7 accused to which they pleaded not guilty and claimed trial.

5. The prosecution in order to establish its case examined as many as 15 PWs. The gist of their statements is briefly referred to hereinunder:

hereinunder:-

PW-1 Jaswant Singh (complainant) while in the witness witness-box stated in tune with the allegations as recorded in the FIR, which had been lodged pursuant to his statement Ex.P1. He specifically named all the accused and individually attributed injuries to them. He specifically stated that Surjeet Surjeet had fired from his gun hitting Krishan in his abdomen. He also stated categorically to the effect that accused Om Parkash had inflicted a blow with gandassa to CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) Nand Ram on his head and gave another blow thrust thrust-wise to Nand Ram on his chin.

PW-2 Nand nd Ram, Ram, who is an injured witness, stated in tune with the statement made by complainant - Jaswant Singh and narrated the incident identically. He also stated that Surjeet Singh had fired from his gun at Krishan hitting him in his abdomen. He specifically stated that Om Parkash had inflicted a blow with specifically gandassa on his head and another on his chin, which was inflicted by using the gandassa like a stick.

PW-3 Dr. Satish Parkash, Parkash, Medical Officer, PHC, Farmana, District Sonapat, stated that on 24.11.2001, he was posted at PHC Safidon, as Medical Officer and that on the said day, he had medico legally examined Subhash Chander Chander. He described 2 injuries found on his person, which were opined to be simple in nature and proved the MLR as Ex.PA. PW-3 further stated that on the said day, he had also medico legally examined Om Parkash son of Sher Singh who was found to be having 2 simple injuries injuries..

He proved his MLR as Ex.PB. PW PW-3 further stated that on the said day, he had also medico legally examined Satbir Singh who was having 3 simple injuries described in his MLR Ex.PC.

PW-4 HC Phul Kumar stated that on 22.11.2001, he was posted at Police Station Safidon and had joined investigation with ASI Virender irender Singh when blood stained soil and an empty cartridge were ere lifted from the place of occurrence, which were taken into possession vide recovery memos Ex.PE & PF.

PW-5 HC Ram Phal, Phal, who is a formal witness, tendered his affidavit Ex.P in evidence, wherein he deposed that on 21.11.2001, he Ex.PH was posted as Malkhana Moharrir, Police Station Safidon and that on the said day, day, ASI Chottu Ram had

deposited 3 sealed parcels CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) containing clothes of the injured and that on the next day i.e. on 22.11.2001, ASI Virender Singh deposited 2 parcels containing blood stained soil and an empty cartridge and that on the next day i.e. 23.11.2001, ASI Virender Singh deposited another 2 parcels with him containing clothes of deceased Krishan and a piece of plastic of cartridge and that on 23.11.2001, ASI Chottu Ram deposited a parcel containing a double barrel gun. He further deposed that on 29.11.2001, the said parcels were entrusted to Constable Mohinder Singh for the purpose of delivering the same in the office of Director, FSL, Madhuban Madhuban, which was accordingly deposited and that as long as the parcels remained in his possession, the same were not tampered with.

PW-6 Constable Naresh Kumar stated th that on 22.11.2001, Moharrir Head Constable of Police Station Safidon handed over him a copy of DDR, which he delivered to the Illaqa Magistrate and to other superior Police Officers on the same day. PW-7 Constable Mohinder Singh, Singh, who is a formal witness, tendered his affidavit Ex.PK in evidence, wherein he deposed that on 29.11.2001, EHC Ramphal handed over sealed parcels to him, which he deposited in the office of the Director, FSL, Madhuban on the same day and that as long as tthe parcels remained in his possession, the same were not tampered with. PW-8 ASI Satbir stated that on 21.11.2001, he was posted as ASI in Police Station Safidon and upon receipt of statement (Ex.P1) of Jaswant Singh, he recorded formal FIR (Ex.PL). PW-9 SI Hans Raj Ra stated that during the period the investigation remained entrusted with him, he had recorded statements under Section 161 Cr.P.C. of some witnesses. He further deposed that CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) upon completion of investigation, report under Section 173 Cr.P.C was prepared on 28.01.2002, which bears his signatures. Cr.P.C.

PW-10 Constable Dilbag Singh stated that he had prepared the scaled site plan Ex.PN of the place of occurrence. PW-11 Umed Singh, Ahlmad to District Magistrate, Jin Jind proved the sanction order Ex.PQ passed by the District Magistrate, Jind vide which sanction was accorded for prosecuting Surjeet Singh under various provisions of Arms Act.

PW-12 Dr. Raman Shukla, who had conducted post post-mortem examination on the dead body of Krishan, proved the ppost-mortem report as Ex.PR, wherein he described the injuries found on the dead body of Krishan and opined that the cause of death was shock and haemorrhage as a result of fire arm injury found on the dead body. PW-13 Dr. A.K.Suri stated that on 21.11.2001, when he was posted at CHC, Safidon, Safidon, he had medico legally examined Kamla and found 3 injuries on her person, pe which he described in the MLR Ex.PU Ex.PU..

He also examined Angoori and found 5 injuries on her person, which he described in the MLR Ex.

Ex.PUU. He stated that he had also examined Dhanpati and found 3 injuries on her person, which he described in the MLR Ex.PX.

Ex.P He stated that while examining Nand Ram, Ram he found 2 injuries on his person, which he described in the MLR Ex.PY.

Ex.P He also stated that on the same day, he examined Jaswant Singh and found 4 injuries on his person, which he described in the MLR Ex.P Ex.PZ.

PW-14 SI Chotu Ram, Ram, who had partly conducted the investigation, stated in respect of the same in detail and proved various documents prepared during the course of investigation. CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) PW-15 ASI Virender Singh, Singh, who is the Investigating Officer, stated in detail with regard to the investigation conducted by him and proved various documents prepared during the course of investigation.

6. Upon closure of the prosecution evidence, statements of accused were recorded in terms of Section 313 Cr.P.C., wherein the entire prosecution evidence led by the prosecution was put to them to enable to explain the same, but the accused denied the case of prosecution. Accused - Surjeet Singh pleaded that on 30.09.2001, the police arrested Mehar Singh, a cousin of PW Subhash and Satish, brother of Krishan in respect of an offence under Section 399, 402 IPC and that the complainant party suspected that it was was the accused, who had furnished said information to the police. He further stated therein that the officials of HSEB also raided the tubewells of Om Parkash, father of Krishan and the complainant party suspected that even the said raid was pursuant to a complaint made by the accused and that on the day of occurrence, Panchayat had been convened to resolve the said issues and a compromise had in fact been effected, but the same had not been formally recorded. He stated that the members of the Panchayat had collected and were present at his (Surjeet) house and also at the house of Krishan, but Krishan, Nand Ram and Jaswant Singh while arming themselves with sticks came to his (Surjeet) house and started abusing them and attacked them. Upon hearing alarm, other members of the family of the complainant including the women folk namely Angoori, Kamla, Dhanpati, Subhash, Satbir and Om Parkash had also come there armed with weapons and they all assaulted them. He CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 10 ) further stated that upon hearing their alarm, Dilawar, Ramesh, Om Parkash, Shamsher, Ram Parshad, Santosh, Karmu, Dharmpal and Rajinder also come there to save them, but they were also attacked and were inflicted injuries by the complainant party. He stated that in their defence they (accused) also caused injuries to Jaswant Singh, Nand Ram, Angoori, Kamla and Dhanpati.

Dhanpati. He further stated that in the meantime his uncle Sumer came from the fields while holding his licensed gun and upon seeing them (accused) under attack, he fired towards the complainant party to disburse them, but unfortunately the shot hit complainant Krishan.

7. Accused - Om Parkash in his statement recorded in terms of Section 313 Cr.P.C. pleaded that he had met with an accident in the year 1982 and has been lame since then and cannot walk properly and that his family has no concern with the family of Hawa Singh. He further pleaded that on 21.11.2001, he had gone to Village Kharkara alongwith Joginder Singh to attend a party hosted by Takht Singh and was not present at the spot.

8. The accused in their defence also examined as many as 9 DWs, the gist of whose statements is stated to herein-under:

DW-1 HC Hari Om stated that on 30.09.2001, he was posted as Naib Reader to the Superintendent of Police, Jind and that a complaint Ex.DN was received in their office, which was sent to the concerned Police Station i.e. to the SHO, P.S. Safidon.

DW-2 Balwan Singh, Singh, JE, Thermal Plant, Panipat stated that on 21.11.2001, he was posted in the same department where accused CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 11 ) Dharam Singh was posted post and that on the said day, Dharam Singh was present on duty from 9:00 AM to 5:00 PM.

DW-3 Jai Kishan, proprietor of M/s Jai Kishan Arms and Ammunition Dealer, Safidon stated that on 31.08.2001, Dharam Singh had deposited his licensed double barrel gun with his Arms house, which is entered at Sr. No.161 No.161 of the register.

DW-4 Shamsher Singh, Singh, Teacher, Maharishi Vidya Mandir, Village Butani, stated that he is running a school since the last 5 years and that Hawa Singh was a Teacher in another school namely Holy Child School, Kharkhana and that on 21.11.2001, he had visited the school of Hawa Singh in connection with some arrangements for a picnic for children and had stayed there from 2.30 PM to 5.00 PM and that he was accompanied by Sumer Singh, Teacher. He stated that Hawa Singh remained with them from 3.00 PM to 5.00 PM.

DW-5 Sumer Singh, Teacher stated that he was teaching in Maharishi Vidya Mandir School, which was run by Shamsher Singh and that on 21.11.2001, he along with Shamsher Singh had gone to school of Hawa Singh and that at 2.30 PM Hawa Singh was not present there, but was called later by a Peon. DW-6 Takht Singh stated that he had earlier served Army and that on 21.11.2001, he had hosted a party for his friends which on 21.11.2001, Parkash had attended along with Joginder Singh and that Om Parkash remained with him in his house from 1.00 PM to 7.00 PM.

DW-7 Ram Mehar Singh, Patwari, Patwari, stated that on 10.07.2001, he had received an application for demarcation of land, as had been ordered by the Tehsildar and had given demarcation report Ex.DR/1. He stated that 1 karam of land was found to be CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 12 ) encroached by Ikram son of Bakhtawar and the said land was owned by Hawa Singh.

DW-8 Baldev Raj, Driver in Thermal Plant, Panipat Panipat, stated that he was working as Driver in the Thermal Plant, Panipat since last about 11 years and knew Dharam Singh. He stated that on 21.11.2001, Dharam Singh came to the Thermal Plant at about 8.00 AM and remained there upto 5.00 PM although though he went for lunch for about 1 hour.

DW-9 Joginder Singh stated that he know Takht Singh and that on 21.11.2001, Takht Singh had hosted a party at his residence and that he along with Om Parkash went to the house of Takht Singh on a bi-cycle.

bi . He stated that Om Parkash is disabled from his leg. He stated that they reached the house of Takht Singh at about 12 noon and stayed there for about 7 hours and that later they returned and he dropped Om Parkash at his residence at about 8.00 PM.

9. The learned trial Court, upon marshalling the evidence on record, came to the conclusion that it was a case of free fight where members of both the parties had sustained injuries. Learned trial Court vide its judgment dated 27.01.2005 held that while Surjeet Singh had committed offence under Section 302 IPC, co-accused co accused Sumer Singh, Dilawar @ Dalel Singh Singh, Om Parkash and Dharampal had committed offence under Section 323 IPC. Co-accused accused Hawa Singh and Dharam Singh were, however however, acquitted of all the charges framed against them. The trial Court vide order dated 29.01.2005 sentenced Surjeet Singh to under RI for life and to pay a fine of Rs.5000/-, Rs.5000/ , whereas the other 4 accused namely Sumer Singh, Om Parkash, Dilawar @ Dalel and Dharampal Dharampal were sentenced to undergo RI CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 13 ) for 6 months and to pay a fine of Rs.200/- each. Aggrieved by the same, appellants assailed their conviction by way of present appeals.

10. Learned senior counsel appearing on behalf of appellants Surjeet and Om Parkash kash submitted that they have falsely been implicated in the present case and that the fire arm in question was neither carried by appellant Surjeet Singh nor was used by him and that the same infact was a licensed weapon of co-accused co accused Dilawar @ Dalel Sing Singh. Learned counsel submitted that as far as injuries attributed to appellant Om Parkash are concerned, the same are in the nature of simple injuries which apparently could not have been caused with a gandassa as has been alleged.

11. Learned counsel submitted that in any case even if the allegations pertaining to causing of injuries are accepted to be correct, it is a case where the complainant party had inflicted a large number of injuries to as many as 10 persons on the side of the accused and the accused had no choice but to defend themselves and in the said process the injuries came to be caused.

12. It has further been submitted that there was no intention whatsoever to cause death of anyone and it is a case where despite the fact that 2 persons are alleged to be carrying guns, only 1 shot is alleged to have been fired by one accused at the complainant party and all other shots, which were fired by another co-accused co accused Dharam Singh (acquitted) were fired in the air. It has been submitted that sequence sequence of events clearly suggest that it is the complainant side, which was the aggressor and who have not even CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 14 ) chosen to clearly explain the injuries found on the person of accused and a distorted version has been put forth. Learned counsel, thus, submitted that the impugned judgment could not sustain and was liable to be set aside and the accused deserved deserve to be acquitted.

13. Opposing the appeals, learned State counsel submitted that it is a case where the version got recorded by the complainant (Jaswant Singh) in the FIR is absolutely unambiguous wherein not only the accused have been specifically named, but roles have also been attributed specifically and that the said version stands fully corroborated from the medical evidence evidence..



It has been submitted that PW-11 Jaswant Singh (complainant) as well as another injured PW-2 PW 2 Nand Ram have stated consistently on all the material aspects and as such, conviction of appellants is fully justified.

14. We have considered rival submissions addressed before this Court and with the assistance of learned counsel have also perused the record of the case.

15. Before proceeding to consider the contentions raised on behalf of the appellants, it is apposite to first of all examine the medical evidence as regards the injuries found on the dead body of deceased (Krishan) and also on the person of injured.

16. Injuries to deceased (Krishan) - It is the specific case of the prosecution that the deceased was inflicted a fire arm injury on his abdomen leading to his death. The prosecution examined PW-12 PW 12 Dr. Raman Shukla, who had conducted the post-mortem post mortem examination on the dead body of Krishan. CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 15 ) PW-12 12 described the injuries found on the dead body of Krishan, as under:

"1. Fire arm entry wound ound 4cm x 4 cms in size on right side 5 cms from mid-line line i.e. with reddish inverted margins with abraded collar on medial side along with un-healthy healthy granulation tissue. Distance of entry wound from right heel was 104 cms. The wound is stitched at posteri posterior abdominal wall. The paritonal cavity was having blood and its clots at places. Proximal ileostomy have been done. Caecum and transverse colan on were stitched at places. The lower - of right kidney was ecchymosed with retropari --- clots injuring the pelvic vessels. The direction of wound was from anterior to posterior slightly down down-ward and out-wards.

2. Exit wound of size 1.5 x 1.5 cms present over back at the level of L L-3 vertebra about 7 cms from mid-line line and 100 cms. from right heel with everted margins, argins, in its track the wound had pierced through right eliac bone and track tissue and surrounding tissue were echmosed along with clotted blood at places."

17. PW-12 12 opined that the cause of death was fire arm injury. A perusal of the injuries as found to be existing on the dead body of Krishan clearly suggest that the same are result of a fire arm injury inasmuch as while injury No.1 is in the nature of entry wound, injury No.2 is in the nature of a exit wound. The opinion of PW-12 PW 12 Dr. Raman Shukla is reproduced herein under:

"A circular black wad was recovered from the track on its posterior side which was sealed and packed. It had fractured the right illiac and pubic bones. The margins of wound were everted. Liver, spleen and kidneys were pale. Both lungs were also pale and chambers of heart were empty. The cause of death of deceased in my opinion was due to shock and hemorrhage as a result of ante ante-

mortem fire arm injury described, which were sufficient to cause death in natural course of events."

events.

CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 16 )

18. Although the aforesaid witness was cross cross-examined on behalf of the accused, but nothing substantial could be elicited during the course of cross-examination examination so as to doubt either his veracity and his opinion. Under these circumstances, the factum of exis existence of injuries on the dead body of Krishan and the opinion of the Doctor as regards cause of death being the firearm injury cannot be doubted on any count.

19. Injuries found on complainant side - It is the case of prosecution that the accused apart from inflicting firearm injury to the deceased had inflicted injuries to 5 more persons on the complainant side with the help of gandassas (chopper with large blade usually used for cutting crops like sugarcane garcane etc.).

etc.). The names of the persons injured on the complainant side other than the deceased are as under:

Sr. Name of the Injuries found by PWPW-13 Dr. A.K.Suri No. injured

1. Kamla 3 injuries found on her person as recorded in MLR Ex.PU
2. Angoori 5 injuries found on her person as recorded in MLR Ex.PUU
3. Dhanpati 3 injuries found on her person as recorded in MLR Ex.PX
4. Nand Ram 2 injuries found on hhis person as recorded in MLR Ex.PY
5. Jaswant Singh 4 injuries found on hhis person as recorded in MLR Ex.PZ

20. PW-13 13 Dr. A.K.Suri described the injuries found on the aforesaid five injured,, as follows:

Kamla:

1. One lacerated wound 1 cm x 1.3 cm. obliquely placed. Marginals were irregular, tenderness was present. It was placed on left forearm, in its middle 1/3rd. It was caused by a blunt pointed weapon and was of within 6 hours of duration. Injury was kept under observation and xx-ray was advised.

2. One lacerated wound .7 cm x 1 cm deep. Margins were irregular inverted.

It was placed on left fore-arm fore arm 3.5 cm apart from injury No. 1. It was CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 17 ) caused by a blunt pointed weapon. It was of within 6 hours of duration. X X- ray was advised and injury was kept unde under observation.

3. lacerated wound 1.5 cm x 0.8 cm. Margins were irregular, tenderness was present and was placed on left great toe at its tip. It was caused by a blunt object and was of within 6 hours of duration. XX-ray was advised and injury was kept under unde observation.

Angoori:

1. One lacerated wound 3.5 cm x 0.8 cm up to bone deep, placed on left parietal bone region of scalp. margins were irregular, tender tender-ness was present, there was a fresh bleeding, wound was obliquely placed. It was caused by a blunt object and was of within 6 hours of duration. X X-ray was advised and the injury was kept under observation.

2. One lenior abrasion, 2.5 cm in length, tender tender-ness was present. It was reddish placed on right side of nose, obliquely. Injury was caused by a blunt object. It was of within 6 hours duration and simple in nature.

3. One lacerated wound 0.5 cm x 0.5 cm obliquely placed on left elbow joint region. Margins were were irregular. Tender Tender-ness was present and margins were inverted. It was caused by a blunt pointed object. It was of within 6 hours of duration. X-ray X ray was advised and the injury was kept under observation.

4. One lacerated wound 6 cm x 1 cms. placed on righ right parieto-occipital region of scalp. Margins were irregular. Tender Tender-ness was present. It was obliquely placed. Injury was caused by blunt object and was of within 6 hours of duration. X-ray X ray was advised and the injury was kept under observation.

5. One contusion contusion 4 cm x 1 cm. Oval placed on right side of chest. It was reddish in colour and tender-ness tender ness was present. It was caused by a blunt object and was within 6 hours of duration.

Dhanpati:

1. One lacerated wound 5 cm x 1. cm. x bone deep, obliquely placed on right fronto parirtal region of scalp. Margins were irregular. There was a fresh bleeding. Tenderness was present. Injury was caused by a blunt object. It was within six hours of duration. X-ray X ray was advised and the injury wa was kept under observation.

2. One diffuse swelling 6 cm x 4 cms. Tenderness was present. Oval placed on left hand. Injury was caused by blunt weapon. It was within 6 hours of duration. X-ray X ray was advised and the injury was kept under observation.

3. One contusion contusion 4 cm x 3 cms. Oval placed on occipital region of scalp, tenderness was present. Injury was caused by blunt object. It was of within 6 hours of duration. X-ray X ray was advised and the injury was kept under observation

observation.

Nand Ram:

1. One lacerated wound 5 cm x 0.8 cms. into bone deep, oblique placed on mid parietal wound region of scalp. Margins were irregular. Tenderness was present. Injury was caused by a blunt object. It was within 6 hours of duration. X-ray X ray was advised and the injury was kept under obse observation.
2. One contusion 0.8 cms x 0.2 cms horizontally placed on left side of chin.

Margins were irregular. Tenderness was present. Injury was caused by a blunt object and duration was within 6 hours and simple in nature. Jaswant Singh:

1. One lacerated wound 6 cm x 0.5 cm into bone deep, horizontally placed on right parietal bone region. Margins were irregular. It was tender and there was fresh bleeding. The injury was caused by a blunt object and it was CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 18 ) within 6 hours of duration. X-ray X ray wa was advised and the injury was kept under observation.
2. One abrasion 5 cm x 0.5 cm place horizontally. Placed on left arm in its upper 1/3rd reddish in colour. Tenderness was present. Injury was caused by a blunt object. It was within 6 hours of duration aand simple in nature.
3. One diffuse swelling 6 cm x 4 cms obliquely placed on tempero mandibular joint region of the fact, swelling was present. Tenderness was present. The injuries were caused by a blunt object and it was within 6 hours of duration. X-ray X was advised and the injury was kept under observation.
4. One diffuse swelling 6 cm x 4 cms. Oval placed on right hand. Tenderness was present. It was caused by a blunt object and was within 6 hours of duration. X-ray X ray was advised and the injury was kept uunder observation.

21. PW-13 13 specifically stated that after x-ray x ray examination in respect of injuries of all the 5 injured, he furnished his opinion Ex.PM/1 to the effect that none of the injuries was found to be grievous and were declared as simple injuries. PW-13 Dr. A.K.Suri was cross cross-examined on behalf of the accused as regards the aforesaid injuries, but the factum of existence of such injuries could not be shattered. It, thus, stands established that apart from the deceased deceased 5 more persons on the side of complainant had sustained simple injuries mostly in the nature of lacerations and contusions.

22. It may here be mentioned that prosecution also examined PW PW-3 Dr. Satish Parkash, who stated that on 24.11.2001, he had ex examined Subhash Chander son of

Maha Singh, Om Parkash son of Sher Singh and Satbir Singh son of Shamsher Singh and had found injuries on their person, which he described in their MLRs as Exs.PA, PB & PC respectively.

However, neither any of the aforesaid 3 persons has been examined by the prosecution nor PW-1 PW 1 Jaswant Singh (complainant) nor PW PW-2 Nand Ram (injured) has named the said persons to be also accompanying them or CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 19 ) having sustained any injury. Under these circumstances, the aforesaid evidence is rendered ren irrelevant.

23. Injuries found on the person of accused side - The accused have tried to built up a case of self-defence.

self defence. Learned senior counsel during the course of arguments vehemently argued that as many as 10 persons from the side of accused have been injured and has referred to the cross cross-examination of PW-13 13 Dr. A.K.Suri during the course of which he stated having examined 10 more persons p other than 5 victims on the complainant side.

The names of said 10 persons  
p are stated herein under:

Sr.	Name of the	Injuries found by PW PW-13 Dr. A.
No. injured		
1.	Parshada son of Man Singh	6 injuries found on hhis perso
2.	Dharam Chand son of Dalel Singh	1 injury found on hhis person
3.	Dalel Singh son of Man Singh (ACCUSED)	2 injuries found on hhis perso
4.	Shamsher son of Ram Parshad	2 injuries found on hhis perso
5.	Rajender son of Dharampal	3 injuries found on hhis perso
6.	Ramesh son of Ram Parshad	3 injuries found on hhis perso
7.	Surjeet son of Dharam Singh (ACCUSED)	1 injury found on hhis person
8.	Dharampal son of Lalji Ram (ACCUSED)	4 injuries found on hhis perso
9.	Satbir son of Jamna Ram	2 injuries found on hhis perso
10.	Santosh wife of Om Parkash	1 injury found on hher person

24. It needs to be noticed that out of the aforesaid 10 injured only 3 have been arrayed as accused namely Dilawar @ Dalel Singh Singh, Surjeet, and Dharampal and the remaining 7 injured are neither named in the FIR nor CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 20 ) have been named by the eye witnesses namely PW PW-1 Jaswant Singh and PW-22 Nand Ram.

Ram Though the names of some of the injured find mentioned ed in the statement ement of accused Surjeet recorded in terms of Section 313 Cr.P.C., but the accused neither chose to examine any of the said 7 injured as witness nor any of the defence witnesses ha has referred to them.

25. The injuries found on the person of three accused namely Dilawar @ Dalel Singh, Surjeet, and Dharampal have been described by PW-13 Dr. A.K.Suri during the course of cross-examination cross examination wherein he stated that he medico legally examined them on 21.11.2001 and proved their MLRs as Exs.DD, DD, DH & DJ respectively. The injuries have been described as under:

Dilawar @ Dalel Singh:

Singh

1. One lacerated wound 1 cm x 0.3 cm. oval placed on mid parietal wound region of scalp, margins were irregular. Tenderness was present.

2. One contusion 5cm x 1cm placed on left shoulder joint region. It was reddish in colour. Tenderness was present Surjeet:

1. One wound of the size of 2.5 cm x 3.1 cm in depth obliquely. Margins were irregular and tenderness was present and it was placed on left forearm in its lower 1/3rd. The injury was caused by blunt pointed weapon and was also within 6 hours of duration. X X-ray was advised.

Dharampal:

1. One lacerated wound 4.5 cms x 1 cm. obliquely placed on left parietal bone region of scalp. Margins were irregular. Tenderness was present. It was caused by a blunt object and it was within 6 hours of duration. X X-ray was advised and the injury was kept under observation.

2. One incised wound 2 cms x 1 cm. horizontally placed on occipital region of scalp. Margins were regular. It was caused by a sharp object. It was within 6 hours duration. X-ray X ray was advised and the injury was kept under observation.

3. One diffuse swelling 6 cm x cms placed on left elbow joint region. Oval in shape.

Tenderness was present, it was caused by a blunt weapon and so within 6 hours of duration, X-ray X ray was advised and the injuries was kept under observation.

4. One contusion 5 cm x 4 cms placed on left scapular region. Tenderness was present. Injury was caused by a blunt object and it was of within 6 hour duration. X-ray X ray was advised and injury was kept under observation observation.

CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 21 )

26. Since the accused did not lead any evidence to show that any of the injury was grievous or serious, serious the said injuries are taken to be simple injuries.

27. Having affirmed that several persons from the complainant side and also from the side of accused had ha been injured, the material question before this Court is as to whether the injuries in question were caused by the accused in self-defence self defence or as to whether it is the accused themselves who were the aggressors or as to whether it is a case of some kind of free fight and as to whether the accused shared share any common intention or any common object for inflicting inflicting these injuries.

28. As per the version recorded in FIR, on the day of occurrence, a Panchayat had been convened to resolve the issue between both the sides as regards 'dol' in the fields and although the matter has been compromised, but it was yet to be taken down in writing and at that stage the accused said that they do not accept the compromise and left the Panchayat and went towards their houses and came back shortly armed with weapons and inflicted injuries. PW-11 Jaswant Singh (complainant) and PW PW-2 Nand Ram (injured) have both stated consistently as regards the aforesaid version recorded in the FIR regarding the manner in which occurrence had taken place.

29. The accused Surjeet, Surjeet in hiss statement recorded in terms of Section 313 Cr.P.C., has not disputed the aforesaid factum of convening of Panchayat.. However, he has assigned a different reason for convening the meeting of Panchayat while stating that it had been convened to dispel CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 22 ) misconceptions which the complainant party nursed against the accused as the complainant party carried a wrong impression that the accused party had made complaint against them to the police leading to registration of an earlier FIR and that the accused had also lodged complaint against them with the officials of HSEB regarding pilferage of electricity.. Surjeet Singh has taken a stand that although the said misconceptions were cleared and resolved in the Panchayat by the accused side, but the complainant party did not accept the compromise and Krishan (deceased), Nand Ram and Jaswant Singh while armed with sticks came to the house of Surjeet and started abusing him and attacked them and that upon hearing alarm other other members of the complainant's family i.e. Angoori, Kamla, Dhanpati, Subhash, Satbir and Om Parkash also came there and assaulted them. Surjeet further stated therein that Dilawar, Ramesh, Om Parkash, Shamsher, Ram Parshad, Santosh, Karmu, Dharampal and Rajinder Rajinder had also come there to save them, but they were also attacked by the complainant side and were inflicted injuries and that the accused also inflicted injuries to Jaswant Singh, Nand

Ram, Angoori, Kamla and Dhanpati in their self-defence.

30. The aforesaid stand would show that the factum of convening of a Panchayat and the quarrel or fight which ensued thereafter, is not disputed by Surjeet in his statement recorded under Section 313 Cr.P.C. The complainant side as per the said statement was armed with sticks only. The admitted sequence of events makes it evident that the parties had gathered and had participated in the Panchayat to resolve their CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 23 ) disputes, but shortly thereafter the occurrence took place. The stand taken by Surjeet Singh in his statement recorded in terms of Section 313 Cr.P.C. as regards complainant side nursing some suspicion on account of the accused having lodged complaint with the police and also with HSEB is not substantiated from any convincing evidence. On the other hand, there is nothing to discredit PW-1 Jaswant Singh and PW PW-2 Nand Ram, who have stated consistently regarding the reason for convening of Panchayat and that the accused had walked out of the Panchayat while stating that they do not accept the compromise and had proceeded to their house and returned immediately thereafter and caused injuries.

31. The version put forth by Surjeet Singh in his statement under section 313 Cr.P.C.. that the complainant side had opened attack by entering into house of Surjeet and that the injuries found on person of complainant side had been caused in self-defence self defence does not seem to be true under the given circumstances. While there is evidence with regard to the injuries found on the person of 3 accused namely Dalel Singh, Surjeet and Dharampal, the admissibility of medical evidence with regard to other 7 persons in respect of which PW-13 PW has stated during his cross cross-examination may be debatable inasmuch inasmuch as neither any of the said 7 injured person has stepped into the witness-box witness box nor any of the DW has stated about them. In any case, even if said evidence is taken into account, the very fact that complainant side was armed with sticks only whereas the accused side was carrying guns and gandasas and would have outnumbered complainant, makes the plea of self-defence self defence sound hollow.

CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 24 )

32. This Court, however, finds that although a large number of accused are statedd to be armed with gandassas,, but none of the injuries found on the person of 5 injured can be said to have been inflicted by gandassa from sharp side.. The PWs have also described several of the injuries to have been caused by using gandassa like a stick. A perusal of all the 19 injuries sustained by by 5 injured from complainant side shows that all are in the nature of contusions or lacerations and have specifically been opined to have been caused by blunt object.

33. The manner in which occurrence had taken place shortly after the Panchayat proceedings shows that it is not a case where the accused had formed any common object to inflict injuries so as to cause death.

34. The manner of occurrence and the number of injured on both sides makes it apparently a case of 'free fight' or spontaneous confrontation rather than pre-meditated meditated crime.



crime The phrase 'free fight' has been defined by Hon'ble Supreme Court in 1993 (Supplement 3) SCC 141 Dwarka Prasad vs. State of Uttar Pradesh, Pradesh as under:

"10. A free fight is that when both sides mean to fight a pitched battle. The question of who attacks and who defends in such a fight is wholly immaterial and depends on the tactics adopted by the rival party. In such cases of mutual fights, both sides can be convicted for their individual acts. This position has been settled by this Court in the cases of Gajanand v. State of U.P., AIR 1954 Supreme Court 695 : 1954 Cri LJ 1746, Kanbi Nanji Virji v. State of Gujarat, (1970) 3 SCC 103 : AIR 1976 Supreme Court 219, Puran v. State of Rajasthan, (1976) 1 SCC 28 : AIR 1976 Supreme Court 912, Vishvas Aba Kurane v. State of Maharashtra, (1978) 1 SCC 474 : AIR 1978 Supreme Court 414. As such once it is established by the prosecution that the occurrence in question is result of a free fight then normally no right of private defence is available to either party and they will be guilty of their respective acts."

CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 25 )

35. To a similar effect is judgment rendered in Amrik Singh vs. State of Punjab, 1993 Cr.LJ 2857, 2857, wherein Hon'ble Supreme Court observed as under:

"The The High Court, further held that this is a case of free fight. In coming to such a conclusion, the High Court has taken into consideration the fact that the accused as well as the deceased and PWs appeared at the place of occurrence armed with weapons and the quarrel took place immediately. This is a question of fact which does not warrant any interference. The question as to who commenced it first may not be such relevant and it has also been held in a number of cases that the participants should be liable for their individual acts. In this view of the matter, we have to examine the plea of each of the accused. We may, however, mention that in a case of free fight, the question of unlawful assembly is not ruled out. But in arriving at the common object of the unlawful assembly in a free fight it cannot be held with certainty that if one of the individual inflicts a serious injury then it would be a common object of all members of the unlawful assembly."

36. Hon'ble Supreme Court in 1996(2)RCR(Criminal) 616, State of Haryana vs. Chandvir, Chandvir in another case of death during a free fight between two families held as under:

"A reading of the evidence clearly goes to show that after the first incident of quarrel between the the ladies had taken place, when the deceased deceased-Rajpal was passing through the road and had come near the house of the accused, there appears to have arisen a quarrel between the accused party and the prosecution party. Both the incidents had taken place during the course of the same transaction. The question then is: whether it is possible to believe the evidence of the injured witnesses implicitly to base the conviction of the respondents? It would appear from the evidence adduced that there is no common object or intention to kill the

deceased. It would appear that it is a case of free fight between the accused party and the prosecution party on account of the quarrels between the two families. There is evidence that some of the accused suffered injuries in the same transaction and the prosecution has not explained injuries on them. In those circumstances, the liability of each of the accused has to be considered independently."

CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 26 )

37. In the present case, there there is nothing on record to show that the accused other than Surjeet had any knowledge or intention that Surjeet was going to cause death. Surjeet was not carrying any gun when the Panchayat proceedings were going on.

on Under these circumstances in view of law settled by Hon'ble Apex Court as referred referred to above above, the accused can only be held liable for their individual act and cannot be held vicariously liable..

38. Consequently, Om Parkash can be held liable only in respect of injuries attributed to him. He was attributed injuries found on the pperson of injured Nand Ram, which are in the nature of simple injuries. PW PW-1 Jaswant Singh and PW-2 PW Nand Ram having stated consistently in tune regarding Om Parkash having inflicted injuries to him (Nand Ram) and the said id fact being fully established from the medical evidence as well, this Court does not have any hesitation in affirming the findings of the trial Court as regards guilt of appellant - Om Parkash for having committed offence under Section 323 IPC.

39. However, having regard to the fact that the occurrence had taken place in the year 2001 i.e. more than two decades back, and appellant - Om Parkash, who is presently aged about 70 years and is not stated to be a previous convict, there is some room for reduction in sentence. Consequently, while dismissing his appeal, sentence of imprisonment as imposed by the trial Court modified and is reduced from RI from six months to the one already undergone. CRA-D-222-DB-2005 (O&M) & CRA-S-394-SB-2005 2005 (O&M) ( 27 )

40. As far as appellant Surjeet Singh is concerned, PW PW-1 Jaswant Singh (complainant) and PW-2 Nandd Ram (injured) have both consistent consistently stated to the effect that Surjeet Singh had fired from his double barrel gun at Krishan hitting him in his abdomen. The said fact is duly borne out from the medical evidence in the shape of post post-mortem report, wherein 2 injuries found on the dead body of Krishan were shown to be an 'entry wound' and an 'exit wound' and the Doctor has clearly opined that the said injuries were caused aused by the firearm and the cause of death was firearm injuries.

41. There being nothing to contradict the testimonies of PW PW-1 Jaswant Singh and PW-22 Nand Ram or to doubt the medical opinion, the findings of guilt of Surjeet Singh as recorded by the tri trial Court for having committed offence punishable under Section 302 IPC do not suffer from any infirmity and the same are hereby affirmed. Finding no merit in the instant appeal, the same is hereby dismissed.

42. A copy of this judgment be sent to the quar quarters concerned for necessary compliance.

(GURVINDER GURVINDER SINGH GILL GILL) JUDGE 07.02.2025 (JASJIT SINGH BEDI) Vimal  
JUDGE Whether speaking/reasoned: Yes/No Whether reportable: Yes/No