



2026:JKLHC-JMU:109

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
ATJAMMU**

CrI A(D) No. 04/2024

c/w

CrI. Ref.(L) No. 05/2024

Reserved on: 02.04.2026

Pronounced on : 23.04.2026

Uploaded on: 23.04.2026

Whether the operative part or
full judgment is pronounced: "FULL"

- 1. Deepak Singh, aged 36 years,
son of Ramesh Singh,
Presently lodged in District Jail, Udhampur.**
- 2. Shammi Singh, aged 35 years,
son of Ravi Singh,
Presently lodged in District Jail, Poonch.**
- 3. Manjeet Singh, aged 38 years,
son of Surjeet Singh,
Presently lodged in District Jail, Ambphalla,
Jammu.**
- 4. Charanjeet Singh, aged 26 years,
son of Surjeet Singh,
Presently lodged in District Jail, Rajouri.**

...Applicant(s)/Petitioner(s)

**All residents of Sattrayian,
Tehsil R.S. Pura, District Jammu.**

**Through: - Mr. R.K. Kotwal, Advocate with
Mr. Fahim Ahmed Mir, Advocate**

v/s

**The U.T of Jammu & Kashmir,
through the Station House Officer,
Police Station, R.S. Pura,
Jammu.**

...Respondent(s)

**Through:- Mr. Sunil Sethi, Sr. Advocate
Mr. Ravinder Gupta, AAG with
Ms. Palvi Sharma, Advocate &
Ms. Mehar Bali, Advocate
Mr. Abdul Hafeez, Advocate**

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

JUDGMENT



Sanjay Parihar-J

1. The appellants, being aggrieved by the judgment of conviction and order of sentence dated 24.01.2024 passed by 1st Additional Sessions Judge, Jammu “the trial court” in the case titled *State vs. Deepak Singh and Ors.*, arising out of FIR No. 132/2014 of Police Station R.S. Pura under Sections 452, 302, 34 RPC read with Sections 4/25 and 30 of the Arms Act, awarding sentence of imprisonment for life and imposing of fine, seek reversal of the said judgment and their consequent acquittal. It is submitted that the prosecution has failed to establish the charges against the appellants beyond reasonable doubt, and the impugned judgment is unsustainable both in law and on facts.
2. The prosecution case rests primarily on the testimonies of three alleged eye-witnesses, namely PW-1 Anil Sharma, PW-2 Kishore Sharma, and PW-3 Vijay Kumar. However, their statements suffer from serious infirmities as they are interested witnesses and lack independent corroboration. Moreover, their statements were recorded after an unexplained delay of more than one month from the date of the alleged incident. The prosecution has failed to offer any plausible explanation for such delay, thereby rendering their testimonies susceptible to embellishment, exaggeration, and afterthought, which significantly diminishes their evidentiary value.
3. It is further submitted that the presence of appellant Deepak Singh at the scene of crime is highly doubtful. Evidence on record indicates that he was serving in the Army and was posted at Baramulla at the



relevant time. His superior authority has disputed his presence at the place of occurrence, thereby establishing a strong alibi which the prosecution has failed to rebut. There are also material contradictions regarding the place of occurrence. While the eye-witnesses have deposed that the incident took place inside the shop, PW-10 Satpal Sharma, the forensic witness and one of the first to reach the spot, has stated that the samples were lifted from outside the shop, i.e., from the thoroughfare. The prosecution has failed to reconcile this contradiction, thereby creating serious doubt about the exact place and manner of occurrence.

4. The ocular version of the prosecution is further contradicted by the medical evidence. The prosecution alleges that appellants Manjeet Singh, Charanjeet Singh and Shammi Singh were armed with *tokas* and inflicted multiple injuries upon the deceased Vinod Kumar. However, the medical report reveals that the deceased sustained only a single bullet injury, with no injuries attributable to any sharp or blunt weapon. This inconsistency between the ocular and medical evidence strikes at the root of the prosecution case and renders the alleged role and presence of the said appellants doubtful. It is also submitted that the prosecution has failed to establish any prior meeting of minds or common intention among the appellants so as to attract the provisions of Section 34 RPC. There is no credible evidence on record to show any pre-arranged plan or concerted action by the appellants.
5. The prosecution version is further weakened by serious procedural lapses relating to the FIR. PW-1 Anil Sharma has denied having



lodged any written report with Police Station R.S. Pura, which undermines the prosecution's case regarding the origin of the FIR. Additionally, the FIR was not dispatched in compliance with Section 157 Cr.P.C., and Column No. 15 of the FIR does not indicate when the copy was transmitted to the Court. These omissions cast serious doubt on the authenticity and timing of the FIR, particularly with respect to the naming of the appellants. Furthermore, the unexplained delay of more than one month in recording the statements of the alleged eye-witnesses raises grave suspicion. In the absence of any explanation, it is doubtful how the investigating agency initially came to know the names and particulars of the appellants, thereby indicating possible fabrication and manipulation during investigation.

6. There is also a material inconsistency regarding the weapon allegedly used in the commission of the offence. PW-16 Dr. Sanjeev Bhardwaj has opined that the death was caused by a bullet fired from a revolver, whereas the weapon allegedly recovered is a gun, suggesting death by pellets. This contradiction creates a serious gap in the chain of evidence and further weakens the prosecution case. Lastly, the prosecution has failed to establish any credible motive for the commission of the alleged offence. In a case where the evidence is otherwise doubtful and unreliable, the absence of motive assumes considerable significance and further entitles the appellants to the benefit of doubt.
7. Per contra, the respondents have urged there is no perversity in conviction of appellants as the prosecution have proved the charges



beyond doubt. That prosecution version is further strengthened from the own admission of the appellants who have failed in dislodging the credibility of eye witnesses.

8. Briefly stating case of the prosecution happened to be that, PW Anil Sharma, son of Tirath Ram and real brother of the deceased Vinod Kumar, lodged a written report before the Police Station R.S. Pura. The complainant stated that he is a resident of Village Sattrayian and a businessman by profession. He further alleged that accused Deepak Singh, son of Ramesh Singh, and Manjeet Singh and Charanjeet Singh, sons of Surjeet Singh, all residents of the same village, were having prior enmity with him and his brothers. It was alleged that on 08.07.2014 at about 02:15 PM, the deceased Vinod Kumar was sitting in his shop located at Ward No. 12 and was watching television. At that time, Vijay Kumar, the complainant's uncle, was also present in his own shop situated opposite to the shop of the deceased. When the complainant reached the shop after having his meals, he saw appellants, Deepak Singh, Manjeet Singh, Charanjeet Singh, along with one unknown person, entering the shop of the deceased armed with a gun and sharp-edged weapons (Tokas). Acting with a common intention to kill, they attacked Vinod Kumar. It was specifically alleged that accused Deepak Singh was carrying a gun, while the other accused were armed with Tokas. Upon the alarm raised by the complainant and his uncle, accused Deepak Singh fired from the gun, causing grievous injuries to Vinod Kumar, after which all the accused fled from the spot.



9. The injured Vinod Kumar was immediately taken to Government Hospital, R.S. Pura by Vijay Kumar and others, where he was declared brought dead. On the basis of the written report, FIR No. 132 of 2014 was registered at Police Station R.S. Pura on the same day at 15:00 hours under Sections 452, 302, 34 of the Ranbir Penal Code and Sections 3/25 and 4/25 of the Arms Act. The investigation of the case was entrusted to Inspector Deepak Singh Jasrotia, SHO of Police Station R.S. Pura. During the course of investigation, accused Deepak Singh and Manjeet Singh were arrested on 09.07.2014 and 10.07.2014 respectively, whereas accused Shammi Singh and Charanjeet Singh were arrested later on 07.08.2014. After their arrest, all the accused persons are stated to have made disclosure statements. On 11.07.2014, accused Deepak Singh made a disclosure statement leading to the recovery of a double barrel gun, two live cartridges, one empty cartridge and a motorcycle bearing registration No. JK02BE-0197. The recovered gun bore the inscription "GURMAN STEEL BARREL" on its barrel.

10. During the investigation, the Investigating Officer, along with the Forensic Science Laboratory (FSL) team, visited the place of occurrence and collected incriminating evidence. Statements of FSL experts and the photographer were recorded under Section 161 Cr.P.C. After conducting the post-mortem through a board of doctors, the body of the deceased was handed over to his relatives for last rites. The clothes of the deceased were seized, and the sealed items were subsequently got resealed through the Executive Magistrate. Chance



fingerprints lifted from the double barrel gun were sent to the FSL along with admitted fingerprints of accused Deepak Singh for comparison.

- 11.** Further investigation revealed that accused Deepak Singh was absent without authorization from Military Transit Camp No. 213, Jammu on 08.07.2014, as confirmed by a certificate obtained during investigation. It was also found that he had left the Transit Camp on 07.07.2014 without permission, met the co-accused, and participated in the commission of the offence on 08.07.2014 in furtherance of a pre-planned conspiracy. Statements of witnesses were recorded under Sections 161 and 164-A Cr.P.C. Upon completion of investigation, all the accused were found to have committed offences punishable under Sections 302, 452, 34 of the RPC and Sections 4/25 and 30 of the Arms Act. Accordingly, the Investigating Officer filed the charge-sheet against the accused persons for the aforesaid offences.
- 12.** The appellants were charged for offences under Sections 302, 452, 34 of the RPC and Sections 4/25 and 30 of the Arms Act, to which they pleaded not guilty. The prosecution examined PW-1 Anil Sharma, PW-2 Kishore Sharma and PW-3 Vijay Kumar as eye-witnesses; PW-4 Ranjeet Kumar and PW-5 Babli Sharma as witnesses of circumstantial evidence; PW-6 Rashpal Kumar and PW-7 Tarsem Lal for proof of seizure memos; PW-8 Jagdish Raj to prove the DVD allegedly showing the presence of all the appellants at a Restaurant at R.S. Pura prior to the occurrence; PW-12 Rajinder Singh Jamwal as FSL expert; PW-13 Lt. Colonel Iqbal Hussain, the Army officer who handed over



custody of appellant Deepak Singh to the police; PW-13-A Mool Raj, Scientific Officer, FSL; PW-16 Dr. Sanjeev Bhardwaj, Medical Officer; and PW-17 Inspector Deepak Jasrotia, the Investigating Officer. The appellants were examined under Section 342 Cr.P.C. with respect to incriminating circumstances, which they denied, claiming false implication and feigning ignorance about the incident.

13. PW-1 Anil Sharma deposed that on 08.07.2014, while the deceased was sitting in his shop, he had gone home to bring food, and upon returning, he saw the appellants in the shop of the deceased. He stated that appellant Deepak Singh was holding a gun, while the others were carrying Tokas, and that they started abusing the deceased, after which Deepak Singh fired a shot at him. He stated that PW-2 Kishore Sharma and PW-3 Vijay Kumar, who were in adjoining shops, also witnessed the incident, and that Vinod Kumar died on the spot and was taken to the hospital, where he died en route. He denied having lodged any written report with the police and claimed that he made his first statement under Section 164-A Cr.P.C. He identified his signatures on certain documents but denied knowledge of their contents or preparation. He further denied any disclosure statements being made in his presence and expressed ignorance regarding the lodging of the FIR and prior disputes. He stated that he remained at home from 08.07.2014 till 07.08.2014 and admitted that blood had spilled in the vehicle and on his clothes while shifting the deceased, though he denied any false implication arising out of alleged illicit relations involving his sister.



14. PW-2 Kishore Sharma deposed that on 08.07.2014 at about 02:15 PM, while sitting at his uncle's shop, he saw the appellants arriving in an Alto car and a motorcycle. He stated that Deepak Singh was carrying a gun while the others had Tokas, and that they entered the shop of the deceased, grappled with him and started beating him. He informed PW-3 Vijay Kumar, and shortly thereafter PW-1 Anil Sharma also arrived. He stated that Deepak Singh fired at the deceased and the others inflicted injuries with Tokas, after which the deceased was taken to the hospital. He also spoke about recoveries of weapons but contradicted himself by stating that no disclosure statements were made in his presence. He admitted the existence of prior criminal litigation between the parties and acknowledged earlier statements regarding an alleged illicit relationship involving appellant Manjeet Singh and his sister. He further admitted that he had not made any statement under Section 161 Cr.P.C. between 08.07.2014 and 13.08.2014, and that his statement under Section 164-A Cr.P.C. was recorded only on 13.08.2014.

15. PW-3 Vijay Kumar deposed that on 08.07.2014, while he was sitting in his shop adjacent to that of the deceased, he saw the appellants enter the shop and attack the deceased, with Deepak Singh firing a gunshot. He stated that by the time he and others reached the spot, the appellants had fled. He saw the deceased bleeding from a gunshot injury and, along with others, took him to the hospital, where he was declared dead. He stated that the police and FSL team later visited the spot and collected evidence. He admitted that he made his statement



before the Magistrate for the first time on 05.08.2014 and that he remained at home between 08.07.2014 and 05.08.2014. He also admitted that the deceased had not sustained any injuries from a Toka.

16. PW-9 Somnath deposed that he had sold a 12-bore gun to appellant Deepak Singh in 2009 and had issued five cartridges to him on 06.07.2014. PW-5 Babli Sharma stated that she was threatened by the appellants on 07.08.2014 and that she came to know about the incident from her son, though she admitted she had not witnessed it. PW-8 Jagdish Raj stated that CCTV footage from Indereshwar Restaurant was taken and seized on 08.07.2014 before noon. PW-10 Satpal Sharma, a forensic official, deposed that he recovered pellets, blood samples and blood-stained clay from the place of occurrence, though he clarified that the location was a thoroughfare and not a shop, contrary to earlier statements.

17. PW-13-A Mool Raj deposed regarding chemical and serological examination of exhibits. PW-12 Rajinder Singh Jamwal, the ballistic expert, stated that the shotgun was functional and had been fired, and that the cartridge and projectiles corresponded to it; however, he admitted that the gun was not shown to him in court, that it lacked certain markings, that the projectiles bore no blood stains, and that he was unaware of the custody of the exhibits prior to examination. PW-13 Lt. Colonel Iqbal Hussain deposed that appellant Deepak Singh was handed over to the police from the Transit Camp Jammu on 09.07.2014, and described the security features of the camp, while



admitting lack of clarity regarding the appellant's movement and absence.

18. PW-16 Dr. Sanjeev Bhardwaj, who conducted the post-mortem, found a single gunshot injury with entry and exit wounds, extensive damage to neck structures, and opined that death was due to haemorrhagic shock resulting from the injury. He noted that no opinion was sought from him regarding the weapon used, and stated that the injury could possibly have been caused by a revolver. PW-17 Inspector Deepak Jasrotia, the Investigating Officer, admitted several lapses in investigation, including unexplained delay in recording statements, failure to send the report under Section 157 Cr.P.C., non-seizure of key evidence such as the vehicle and blood-stained clothes, lack of verification from hospital authorities, absence of proof regarding the accused's presence, and failure to properly investigate the alleged motive or the movements of appellant Deepak Singh from the Transit Camp. He also admitted deficiencies in the recovery of weapons and lack of forensic linkage. This, in essence, constitutes the prosecution evidence.

19. Having heard learned counsel for the parties at length and upon perusal of the entire record, this Court is called upon to determine whether the prosecution has been able to prove its case beyond reasonable doubt and whether the findings returned by the Trial Court suffer from any infirmity warranting interference.

20. The appellants, when confronted with the incriminating evidence, denied all allegations, asserting false implication and ignorance



regarding any disclosure or recovery of incriminating material. Appellant Deepak Singh admitted ownership of a licensed firearm and procurement of cartridges duly recorded in his licence, while appellant Manjeet Singh also claimed innocence. Notably, the appellants chose not to lead any defence evidence despite being afforded the opportunity. The Trial Court, relying upon the testimonies of PW-1, PW-2, and PW-3, held that their accounts stood corroborated by medical evidence and concluded that all four appellants acted in concert, sharing a common intention and physically participating in the crime. However, the medical evidence, particularly the testimony of PW-16 Dr. Sanjeev Bhardwaj, established that the deceased died due to a single fatal firearm injury with entry and exit wounds, and no other injuries were found on the body.

21. The prosecution case rests on the assertion that appellant Deepak Singh was armed with a 12-bore shotgun, while the remaining appellants carried *tokas* and collectively assaulted the deceased. However, this version is materially contradicted by the medical evidence, which does not disclose any sharp-edged injuries on the body of the deceased. Such a discrepancy strikes at the root of the prosecution narrative, particularly regarding the participation of the co-accused allegedly wielding sharp weapons. In the absence of corroborative medical evidence, the attribution of a common intention under Section 34 of the Indian Penal Code becomes doubtful, as the provision mandates clear proof of a prior meeting of minds and a shared design to commit the offence.



22. In *Ganesh Datt vs. State of Uttarakhand*, AIR 2014 SC 2521, dealt with a similar inconsistency between ocular and medical evidence, where the eyewitnesses alleged firearm injuries, but the medical report revealed no such injuries. The Court held that when ocular evidence is wholly inconsistent with medical evidence, particularly regarding the manner of assault, such testimony cannot be relied upon—especially when the witnesses are interested or inimical. Likewise, in *Shahid Khan vs. State of Rajasthan*, (2016) 3 SCC Criminal 211, the Apex Court emphasized that an unexplained delay in recording statements of eyewitnesses creates serious doubt about their presence at the scene and the authenticity of their version, ultimately leading to the setting aside of the conviction.

23. At the same time, it is settled law that delay alone is not always fatal. In *State of UP vs. Satish* 2005 3 SCC 114, the Supreme Court held that delayed examination of witnesses does not necessarily discredit their testimony if it is otherwise cogent and trustworthy. Unless the defence asks investigating officer categorically as to why there was a delay. Similarly, in *Bodh Raj vs. State of Jammu and Kashmir* 50/2013 D.O.D 25.07.2023, it was observed that delay in recording statements is not fatal where the witnesses withstand the test of cross-examination and inspire confidence.

24. On a careful appreciation of the evidence in light of the settled legal principles governing criminal trials, the testimonies of PW-1 Anil Sharma, PW-2 Kishore Sharma, and PW-3 Vijay Kumar do not inspire confidence and appear fraught with material inconsistencies and



improbabilities. PW-1 Anil Sharma, though admitting his signature on the written complaint, categorically denied having submitted the same. This assumes significance because the prosecution has projected the said document as the very foundation of the FIR. Once the maker of the document disowns its authorship, the prosecution was under an obligation to clarify the circumstances under which the FIR came to be registered and how the involvement of the appellants was disclosed to the police. In the absence of such explanation, a serious dent is caused to the genesis of the prosecution case. Moreover, PW-1's version that he was away for lunch and only returned to see the aftermath of the assault is contradicted by the prosecution narrative portraying him as an eyewitness.

25. This contradiction is further compounded by the testimonies of PW-2 and PW-3, who also admit that PW-1 was not present at the scene when the incident occurred. Despite this, all three witnesses attempt to project themselves as eyewitnesses to the assault by all four appellants, attributing specific roles and weapons to each of them. However, at the cost of repetition, the medical evidence belies this version, as it records only a single gunshot injury as the cause of death, with no indication of injuries caused by sharp-edged weapons allegedly used by the other accused. This inconsistency between ocular and medical evidence strikes at the root of the prosecution case.

26. Additionally, the conduct of these witnesses appears unnatural. By their own admission, they did not intervene during the incident and only reached the spot after the fatal shot had already been fired. Even



if such conduct is momentarily accepted, it remains unexplained why none of them promptly approached the police to lodge either a written or oral report, particularly when they claim to have firsthand knowledge of the occurrence. The delay in recording their statements during investigation, and the fact that they disclosed their purported eyewitness account only after 5th August 2014, raises a strong possibility of deliberation and embellishment.

27. The prosecution version is further weakened by the lack of corroborative evidence regarding the transportation of the injured to the hospital. Although the witnesses claim that they carried the deceased in a private vehicle and that their clothes were stained with blood, the investigating agency neither seized the vehicle nor collected or examined the bloodstained clothes. Such omissions assume importance as they deprive the prosecution of independent corroboration of the presence of these witnesses at the scene and their subsequent conduct. It is also noteworthy that while appellants Deepak Singh and Manjeet Singh were arrested shortly after the incident, the other appellants were apprehended only after the statements of these witnesses were recorded under Section 164-A, which further casts doubt on the spontaneity and truthfulness of their version. Had these witnesses actually been present and witnessed the crime, there was no reason for them to withhold the identities of the assailants even for a brief period.

28. In totality, the contradictions regarding the lodging of the FIR, the doubtful presence of the witnesses at the scene, inconsistencies



between ocular and medical evidence, unexplained delays, lack of corroboration, makes the evidence of PW-1, PW-2, and PW-3, therefore, does not meet the threshold of credibility required to sustain a conviction. The prosecution's attempt to establish prior conspiracy through CCTV footage also fails, as the DVD was allegedly seized before the occurrence of the crime and was not proved in accordance with the requirements of Section 65-B of the Evidence Act. Even, the witness associated with the footage did not confirm having seen the appellants together prior to the incident. Consequently, the theory of a premeditated plan involving all four appellants remains unsubstantiated.

29. In light of the foregoing analysis, the prosecution case reveals significant deficiencies insofar as appellants 2 to 4 are concerned, rendering their involvement in the crime highly doubtful. The evidentiary record does not convincingly establish that they acted in concert with appellant Deepak Singh or shared any common intention to commit the offence on 08.07.2014. The alleged recovery of Tokas at their instance loses evidentiary value once the very disclosure statements are rendered doubtful, particularly in view of the consistent denial by prosecution witnesses regarding such disclosures. Furthermore, the ocular version attributing active participation to these appellants stands contradicted by the medical evidence, making it unsafe to rely upon such assertions. The prosecution has also failed to substantiate its claim that all the appellants were seen together prior to the incident, as neither CCTV footage was proved nor credible oral



evidence led to establish any prior meeting or planning. Mere presence near the scene, even if accepted, cannot by itself lead to an inference of shared intention to commit murder. The delayed implication of appellants Shammi Singh and Charanjeet Singh, coupled with their arrest after 05.08.2014, raises a reasonable apprehension of false implication, possibly owing to their association with the principal accused. Even the evidence against appellant Manjeet Singh remains tenuous and unreliable, particularly in light of the doubtful conduct and credibility of key prosecution witnesses.

30. However, the case stands on a markedly different footing with respect to appellant Deepak Singh. The circumstantial evidence against him forms a consistent and coherent chain pointing unerringly towards his guilt. The medical and forensic evidence conclusively establishes that the death was caused by a firearm injury, specifically from a 12-bore shotgun. The recovery of pellets from both the body of the deceased and the scene of occurrence firmly corroborates the use of such a weapon, effectively dispelling any ambiguity arising from the medical officer's tentative reference to a revolver. The ballistic expert's testimony further strengthens the prosecution case by confirming that the seized shotgun, licensed to Deepak Singh, was in working condition and had been fired. The absence of the weapon during trial does not materially affect the prosecution's case, as the seizure records and forensic report sufficiently establish its identity and use.

31. Crucially, the evidence of PW-9 Somnath establishes that cartridges were issued to Deepak Singh shortly before the occurrence, a fact



admitted by him in his statement under Section 342 Cr.P.C. This circumstance, when read alongside his unexplained absence during the crucial period between 6th and 9th July 2014, assumes great significance. Testimony from the Army authorities indicates that he was missing from the 213 Transit Camp, Jammu, without permission and returned only on the morning of 09.07.2014, when he was subsequently handed over to the police. This unexplained absence, a fact especially within his knowledge, provides a strong incriminating link. His presence in the vicinity, the procurement of cartridges, and his conduct in absconding from duty cumulatively lead to a singular inference that he was responsible for the fatal act.

32. The argument regarding absence of motive is also unpersuasive, as the defence itself suggested prior enmity arising out of alleged personal relations involving the deceased's family, thereby acknowledging the existence of a possible motive. While enmity can cut both ways, in the present case it lends support to the prosecution's version when considered alongside the other incriminating circumstances. The submission regarding lapses in investigation, such as non-seizure of certain articles or failure to send reports under Section 157 Cr.P.C., though not commendable, does not by itself entitle the appellant to acquittal. It is a settled principle that defective investigation cannot be a ground for discarding otherwise reliable prosecution evidence. In *C. Muniappan v. State of Tamil Nadu*, AIR 2010 SC 3178, the Supreme Court held that lapses on the part of the Investigating Officer cannot benefit the accused unless serious prejudice is shown. Similarly, in



State of Karnataka v. K. Yarapa Reddy AIR 2000 SC 185, it was observed that if the investigation is defective, the Court has to examine whether the evidence on record is otherwise reliable. In the present case, the core evidence remains intact and clearly points to the culpability of appellant-Deepak Singh.

33. Accordingly, while the prosecution has failed to establish beyond reasonable doubt the involvement of appellants 2 to 4 or the applicability of Section 34 RPC, the case against Deepak Singh stands firmly proved on the basis of circumstantial evidence. The chain of circumstances is complete, consistent, and incompatible with any hypothesis other than his guilt, thereby justifying his conviction. Thus, while the prosecution fails to establish the guilt of the appellants beyond reasonable doubt or to prove common intention under Section 34 IPC, the chain of circumstantial evidence clearly points towards appellant Deepak Singh as the perpetrator of the offence.

34. The appellants argued that any alleged enmity existed solely between the complainant and appellant Manjeet Singh, and therefore, if Manjeet Singh's involvement is disbelieved, the prosecution's case against appellant Deepak Singh cannot stand independently. This contention was strongly opposed by the respondent, who maintained that the defence itself introduced the theory of illicit relations during cross-examination and suggested that the appellants, being close associates of Manjeet Singh, were falsely implicated. As already noted, enmity is a double-edged factor that may operate both for and against the parties. While the prosecution's case against Manjeet Singh has been found



unreliable, the evidence consistently establishes that Manjeet Singh and Deepak Singh shared a close friendship, and that prior litigation existed between them and the complainant party, including cross-cases pending in courts at R.S. Pura and Jammu. In this background, it may be hypothetically inferred that Manjeet Singh could have been present with Deepak Singh near the scene of occurrence.

35. However, in the absence of any cogent and convincing evidence demonstrating the active participation of Manjeet Singh in the commission of the offence, it would be unsafe to hold him guilty merely on account of his association with Deepak Singh. On the other hand, the evidence against Deepak Singh is consistent and incriminating, particularly regarding his use of a licensed weapon. His status as an Army personnel, coupled with his proximity to Manjeet Singh, may have facilitated the execution of the crime. Although no specific plea was advanced by Deepak Singh, the cross-examination of prosecution witnesses, especially PW-Lt. Colonel Iqbal Hussain, reveals that Deepak Singh had gone missing from the Transit Camp and reappeared on 09.07.2014, after which he was handed over to the police. This circumstance lends further support to the prosecution's case.

36. It is a well-settled principle that motive, though relevant, is not an indispensable requirement for sustaining a conviction, particularly in cases resting on circumstantial evidence. The Supreme Court of India in *Sharad Birdhichand Sarda v. State of Maharashtra, 1984 4 SCC 116*, authoritatively held that where the chain of circumstances is



complete and points unerringly towards the guilt of the accused, the absence or weakness of motive is of no consequence. This principle has been consistently reiterated in subsequent decisions, including *Trimukh Maroti Kirkan v. State of Maharashtra, 2006 10 SCC 681* and *Nizam and Another v. State of Rajasthan, AIR 2015 SC 3430*, wherein it has been observed that motive is only one link in the chain of circumstances and cannot outweigh cogent and convincing evidence establishing the guilt of the accused. Similarly, in *Anwar Ali v. State of Himachal Pradesh, AIR 2020 SC 4519*, it was held that failure to prove motive is not fatal when the prosecution succeeds in establishing a complete and unbroken chain of circumstances. Thus, once the prosecution is able to prove circumstances which form a coherent and consistent chain leading only to the hypothesis of the guilt of the accused, the alleged weakness of motive pales into insignificance and does not detract from the probative force of the evidence on record.

37. Considering the entire chain of circumstances, it stands established that Deepak Singh intentionally caused the death of the deceased. The act appears to have been premeditated, as he absented himself from his place of posting, procured ammunition from PW-Somnath, and subsequently used it to shoot the deceased. The ballistic evidence corroborates these material aspects. Even assuming that the motive is weak, the unbroken chain of circumstances clearly points to Deepak Singh as the principal offender responsible for the incident dated 08.07.2014. Accordingly, the offence under Section 302 RPC stands fully proved against him, and his conviction warrants no interference.



In contrast, the case against appellants 2 to 4 fails for want of sufficient evidence; their convictions and sentences are therefore set aside, and they are acquitted. Hence appeal is *allowed* to the extent of appellants 2 to 4, who shall be set at liberty forthwith if not involved in any other case, whereas appeal to the extent of appellant No. 1 (Deepak Singh) is *dismissed*. The reference from the Trial Court is answered in these terms. Copy of the judgment be notified to the Trial Court for compliance.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

SRINAGAR

23.04.2026

Akfil Dev

