

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

2026:PHHC:092585-DB



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CRA-D-511-DBA-2005
Date of decision: 08.07.2026

STATE OF PUNJAB

...Appellant

VERSUS

MOHINDER SINGH & ORS.

...Respondents

**CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Bhanu Pratap Singh, Addl. A.G. Punjab.

Mr. Arvinder Singh, Advocate for
Mr. V.K. Shukla, Advocate,
for the respondents.

VINOD S. BHARDWAJ, J.(ORAL)

The above appeal has been preferred against the judgment dated 13.01.2005 passed by the Additional Sessions Judge, Ludhiana, in Sessions Case No. 32 of 20.05.2002, arising out of complaint titled as Surjit Kaur Vs. Mohinder Singh and ors.' instituted for offences under Sections 302, 34, 120 IPC, whereby the Additional Sessions Judge, Ludhiana, acquitted the respondents-accused of the charges framed against them, holding that the prosecution had failed to prove the charges beyond reasonable doubt.

2 Brief facts of the present case are that the complainant Surjit Kaur filed the complaint against the respondents-accused persons on the allegations

that accused Mohinder Singh is her husband, Bhupinder Singh accused is his brother and accused Harjinder Kaur is wife of Bhupinder Singh accused. Harpreet Singh was the only son of the complainant born from the wedlock of the complainant and accused Mohinder Singh and he was aged about 22 years. Accused Mohinder Singh developed illicit relations with Harjinder Kaur accused and Harpreet Singh son of the complainant used to object the illicit relations between them due to which Mohinder Singh and Harjinder Kaur used to feel offended and were annoyed with him.

3. On 22.1.1997 at about 4.00 p.m. when Mohinder Singh had gone to the house of Harjinder Kaur, Harpreet Singh her son went to call him from there. Harpreet Singh came back and told the complainant that Mohinder Singh accused told him that he will not come back in the night and told him (Harpreet Singh) to go to home and sleep. Son of the complainant lied down on his cot and covered himself with quilt and after some time he started vomiting and his condition deteriorated. On an enquiry made by the complainant, he told the complainant that Harjinder Kaur had given him milk. Condition of Harpreet Singh further deteriorated and then Mohinder Singh accused along with Bhupinder Singh accused and his son Chaman Pal Singh took Harpreet Singh to Jagraon. Mohinder Pal son of sister of the complainant and Parminder Singh neighbour also accompanied them. The complainant was not taken along with them and Harpreet Singh died on the same night. Post-mortem was got conducted at Jagraon by the police but the police did not take any action against the accused and kept on saying that no action could be taken in the matter till the report of the chemical examiner regarding the consumption of poison was received. The complainant made efforts to get the case registered but the police did not take any action and the complainant approached to the higher authorities but no action was taken.

4. After recording the preliminary evidence, accused were

summoned to face trial. Since the offence u/s 302 IPC is exclusively triable by the court of sessions, thus the case was committed by the sub Divisional Judicial Magistrate Jagraon to the learned Sessions Judge, Ludhiana, vide order dated 12.1.2002.

5. From the documents and material placed on the file a prime facie case u/s 120-B IPC against all the accused and u/s 302 IPC against Harjinder Kaur and 302 read with section 120-B IPC against Mohinder singh and Bhupiner singh accused was made out and charge was accordingly framed against the accused to which they pleaded not guilty and claimed trial.

6. Prosecution, in support of its case examined Dr.Hari Krishan Singla as PW-1, Tej Pal Singh clerk, CM office Chandigarh as PW-2, C. Jasbir Singh no.491 SSP office Jagraon as PW-3 Tej Kumar Sr. Asstt.to the Punjab State Right Commission Punjab Chandigarh as PW-4 Ashwani Kumar Sr. Clerk office of the DDPO Ludhiana as PW-5 and Surjit Kaur complainant appeared as PW-6 and closed the evidence.

7. Statements of the accused, u/s 313 Cr.P.C., were recorded, in which all the incriminating evidence was put to the accused to which they pleaded innocence and further that complainant Surjit Kaur was having illicit relations with Sarovar singh son of Dalip Singh of pone Kothe which was not liked by Harpreet Singh and Harpreet singh used to quarrel with his mother for her illicit relations but she did not change. Harpreet singh could not bear the illicit relations of his mother and committed suicide.

8. Accused were called upon to enter into defence but they did not lead any evidence in defence and closed the defence evidence.'

9 The parties were heard, whereupon the learned trial Court arrived at the conclusion that the prosecution had failed to adduce sufficient evidence to prove the charges against the respondents-accused beyond reasonable doubt.

Consequently, vide the impugned judgment, the respondents-accused were acquitted of the charges framed against them. Hence, the present appeal.

10 Learned State counsel has vehemently argued that the trial Court committed an error in acquitting the respondents-accused, despite the specific case of the prosecution that the respondents-accused had administered Aluminium Phosphide to the deceased by mixing the same in milk. It is contended that Dr. Hari Krishan Singla, who appeared as PW-1, was never put any question regarding the smell of Aluminium Phosphide; therefore, it cannot be presumed that the substance could not have been administered without being detected, on account of its pungent smell. Learned State counsel further contends that the findings recorded by the trial Court are hence not supported from the testimony of PW-1 Dr. Hari Krishan Singla. It is also argued that the trial Court erred in not appreciating the specific corroboration made by the complainant in her testimony and also during her cross-examination, wherein she reiterated that after her son was admitted and an enquiry was made from him, he disclosed that his aunt Harjinder Kaur had given him the milk. Thus, it is contended that the evidence sufficiently connects the respondents-accused with the commission of the offence by administering the poisonous substance.

11 Learned counsel for the respondents-accused, however contend that the chemical properties of Aluminium Phosphide have been taken into consideration by the Court while rightly disbelieving the version of the prosecution about Aluminium Phosphide having been administered to the deceased without being noticed. He contends that the substance has a pungent smell and is easily detected. He contends that the finding of the Court has not been countered by any effective cogent evidence so as to upset the conclusion drawn by the Court. He contends that there is no

reason as to why the State has not referred to any medical evidence to upset the aforesaid finding of fact recorded by the Court. It is further contended that apart from the self-serving statement of the complainant, there is no other evidence, that has been brought on record, on the basis whereof the respondents-accused may be linked to the commission of the offence.

12 We have heard learned counsel for the parties and have gone through the evidence and the documents available on record. It remains undisputed that the cause of death, in the opinion of the Chemical Examiner and the postmortem report Ex. PB was Aluminium Phosphide. It further remains undisputed that even though the incident in question took place on 22.01.1997, the complaint in question was instituted only in 2002 i.e. after nearly five years of the incident in question. As per deposition of PW1 Tej Pal Singh, no complaint was filed by the complainant before any of the authorities. It has also come on record that one complaint dated 10.04.1997 was sent by the complainant to the office of Senior Superintendent of Police, Ludhiana, which was marked to SHO, Police Station Sadar, Jagraon, for taking action. A report after enquiry, was sent back and thereafter the application was filed on 23.04.1997. No application or any protest against the aforesaid inquiry was ever lodged by the complainant. The application dated 01.08.2001 that has been relied upon by the complainant had actually not been received in the office of Senior Superintendent of Police from Surjit Kaur or any other person. Instead, Senior Assistant of the Punjab State Human Rights Commission, informed that an application had been moved by the complainant on 09.08.2001 and the same was entered in their office on 10.08.2001, however, the same being time barred, hence, no inquiry was conducted on the said application. The original complaint was thereafter sent to the office of Deputy Commissioner, Ludhiana. The complainant did not pursue any remedies post 23.04.1997 till August, 2001 i.e. for a period of nearly four years and

eventually submitted a complaint to the Illaqa Magistrate only in the year 2002 i.e. only after five years of occurrence.

13 The postmortem report specifically attributes the cause of death to Aluminium Phosphide. The trial Court has specifically recorded a matter of fact that Aluminium Phosphide has a strong pungent smell and it cannot be administered in a discrete or undetected manner by mixing the same in milk.

14 Learned State counsel has also not been able to refer to any forensic evidence or any other admissible text on toxicology on the basis whereof the specific findings recorded by the trial Court could be said to be misplaced. Further, it has also come forth that the entire case is based on the sole testimony of the complainant and no other witness has corroborated the case of the prosecution. Additionally, it also remains undisputed that in the report dated 23.04.1997, the allegations levelled by the complainant against the respondents-accused were not found to be proved and the complaint was ordered to be filed. No protest was filed against the same.

15 It has further remained undisputed that the complainant as well as the accused have a common courtyard and the complainant was also sitting in the courtyard. The story that the son of the complainant went to call his father stood falsified by her own statement as she admitted that Mohinder Singh accused was residing in the house of his brother Bhupinder Singh accused. The trial Court noticed that the defence specifically pointed out from the cross examination of the complainant wherein she had deposed that her husband Mohinder Singh used to go daily to the house of Harjinder Kaur and had been staying there two months prior to the occurrence and he continuously lived in the house of Harjinder Kaur and was not on speaking terms with the complainant as well as her son. She along with her son allegedly went to call Mohinder Singh but she sat in the courtyard and her

son went to call him, despite the courtyard being common. Her son came back at about 5:00 or 5:30 p.m., lied down and immediately thereafter he vomitted. She further deposed in her cross-examination that Gurmukh Singh was present in their house when her son Harpreet Singh told her that he had taken the milk at the house of Harjinder Kaur. However, the said aspect was not recorded in the complaint Ex.PW6/A. Even in the list of witnesses, submitted by her, she did not mention name of Gurmukh Singh, Mohinder Pal Singh or Parminder Singh as one of the witnesses and even the names mentioned in the complaint were not examined in evidence. Noticing that apart from the bare statements of the complainant on record, no other evidence had been led to connect the respondents-accused with the crime, the benefit of doubt was extended.

16. It has also come on record that Harpreet Singh deceased was brought to the hospital by the respondent-accused Mohinder Singh, his brother Bhupinder Singh and Chaman Pal. None of the above persons is however examined by the complainant in support of her case. No reasons have been assigned as to why the said witnesses have not been examined. Besides, if Mohinder Singh had conspired with Harjinder Kaur, there was no occasion for Mohinder Singh to bring Harpreet Singh to the hospital. Even otherwise, even Bhupinder Singh-husband of Hajinder Kaur has been nominated as co-conspirator for elimination of Harpreet Singh. It is highly unlikely that Bhupinder Singh would conspire with Mohinder Singh only to eliminate Harpreet Singh so that his wife Harjinder Kaur could have unobjected illicit relations with Mohinder Singh. Ordinarily the husband would remove any person suspected of illicit relations with his wife and not join him for removing a person objecting to the same.

17 Besides, there is an unexplained delay of 5 years in instituting the complaint. No explanation has been put forth even for the said delay. Moreover, when Mohinder Singh was living separately from Surjit Kaur and Harpreet Singh for more than 2 months, there was no reason he would go to the house of Harjinder Kaur, to call his father.

18 Besides, Aluminium Phosphide is an inorganic solid compound used as a fumigant/insecticide/rodenticide. It reacts with moisture to emit lethal phosphine gas having a fishy/garlic like odor. It is thus incomprehensible that such a foul smell emitting compound could be administered undetected or by mixing the same in milk.

19 Considering it from any perspective, the allegations seemingly don't seem plausible or appear possible to occur in the manner as alleged.

20 State counsel has also not been able to point out any error apparent on the face of the record in the judgment passed by the trial Court, nor he has been able to demonstrate from the evidence on record that the findings recorded by the trial Court are misplaced, misconceived, or not based upon a proper appreciation of the evidence.

21 Ordinarily, while dealing with an appeal against acquittal, the appellate Court would not substitute its own opinion for that of the trial Court if the conclusion arrived at by the trial Court is based on an objective reasoning and represents a possible view arising from a meaningful appreciation, analysis, and interpretation of the evidence on record.

21 Consequently, finding no infirmity, illegality, perversity, or misappreciation of the evidence by the trial Court, we are of the considered opinion that the appeal lacks in merit. The same is accordingly **dismissed** and the judgment dated 13.01.2005 passed by the Additional Sessions Judge, Ludhiana, in Sessions Case No. 32 of 20.05.2002, arising out of complaint

titled as “*Surjit Kaur Vs. Mohinder Singh and ors.*’under Sections 302, 34, 120
IPC, is hereby affirmed.

(VINOD S. BHARDWAJ)
JUDGE

08.07.2026
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(SUKHVINDER KAUR)
JUDGE

<i>Whether reasoned/speaking?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>