

analysis has been done then the question arises should we allow the personal liberty of the petitioner to be violated first and then restore it or we should take notice of certain overt acts full of political overtones and vindictiveness ? During last about 11 months no other case 'as on date' has been registered is the stock reply. Instead of granting some relief to the petitioners would it be proper course to tell the petitioners that Court cannot take any action towards preventive justice ? We believe that we should be inclined to protect the personal liberty of citizens given to them by Article 21 of the Constitution.

(30) In view of the above, this petition succeeds. The petitioners shall be given four working days clear notice in case an FIR disclosing the commission of a cognizable offence is registered against them. These directions shall operate only for a period of one year i.e. upto 30th September, 2009 and not thereafter.

(31) The writ petition stands disposed of in the above terms.

R.N.R.

Before Uma Nath Singh & A.N. Jindal, JJ,

STATE OF PUNJAB,—Appellant

versus

MOHINDER SINGH,—Respondent

Murder Reference No. 8 of 2007

Criminal Appeal No. 1033/DB of 2007

30th May, 2008

Indian Penal Code, 1860—S. 302—Accused committing murder of his wife and daughter—No delay in lodging FIR by younger daughter of accused—Accused earlier convicted & sentenced for committing rape on his daughter who was minor at that time—Diabolical act of accused committing double murder—Rarest of rare cases—Death sentence confirmed.

Held, that in her statement to the police, complainant Shalu has given a graphic description as to how the accused entered the house;

the weapon which he was carrying and used in the commission of offence ; the manner and the amount of brutality shown by him ; and as to how she had escaped his wrath and her death by running into a room and bolting it from inside. There was no delay in lodging the FIR as the statement of the complainant was recorded at 7.30 PM and even as per the statement of defence witness, the police had reached the place within 20—25 minutes at the most. The complainant being a girl of tender age of about 15-16 years would have been in a state of utter shock when in her presence, her mother and sister of 20 years, who had earlier been subjected to rape by her accused father, were brutally murdered, and she would have regained some strength to give statement to the police only after a gap which was, however, recorded within half an hour of arrival of the police, that had swung into action on receipt of telephonic message from some unknown person.

(Para 10)

Further held, that the prosecution has successfully brought home the charge of committing murder of Veena Verma and her daughter Gurmit Kaur @ Geetu Verma under Section 302 IPC against the accused—appellant. We do not find any infirmity in the prosecution case and the conclusion arrived at by learned Sessions Judge being based on sufficient evidence on record is hereby affirmed.

(Paras 27 & 28)

Further held, that the accused had earlier committed rape on his deceased daughter who was then a minor while holding threat and giving beatings to her since that act had been reported to the police, leading to his conviction and sentence, he was looking for an opportunity to wreak vengeance on his deceased wife and daughter, and that is why, earlier also, he had caused assaults on his deceased wife Veena Verma. Thus, instead of repenting for his misdeeds, while being under a sentence of 12 years' RI under Section 376 IPC for committing rape which is punishable with maximum sentence of life imprisonment, he remorselessly indulged in another diabolical act of committing double murder of victim of rape (his daughter) and witness in that case (his wife). In this background, looking for a strong mitigating circumstance,

may not yield any result and his offence has in fact, ceased to remain a simple case of murder. This has rather acquired an enormity to the extent of rushing into the category of the 'rarest of rare cases'.

(Para 38)

Further held, that in order to ensure that medical evidence is placed on Court records in correct and clear terms and also that Presiding Officers of Courts do not take it lightly, we direct the Registrar (Judicial) to issue instructions to Secretaries (Health) and Director General/Directors (Health Services) and Presiding Officers of Courts in Punjab, Haryana and U.T., Chandigarh that at the time of recording of evidence of Doctors, who are produced as expert witnesses, Courts shall ask them (Medical Doctors etc.) to submit medical reports on affidavit in clear terms with correct spelling.

(Para 41)

Manoj Bajaj, Sr. DAG, Punjab, *for the appellant*.

K.S. Sidhu, Advocate, with

Tarminder Singh, Advocate.

UMA NATH SINGH, J.

(1) This judgment shall also dispose of connected Criminal Appeal No. 1033-DB of 2007, filed by the sole accused-appellant Mohinder Singh as both the matters arise out of the impugned judgment, dated 22nd November, 2007 passed by learned Sessions Judge, Ludhiana, in Sessions Case No. 32 of 19th April, 2006, holding the accused-appellant guilty of offence under Section 302 IPC and sentencing him to death for committing murder of his wife Veena Verma and his daughter Geetu Verma on 8th January, 2006 in the area of Partap Singh Wala, Ludhiana.

(2) As per the prosecution case, on 8th January, 2006, Sub-Inspector, Gurpreet Singh, (PW 15), S.H.O., Police Station, Haibowal, Ludhiana, at about 7.00 P.M. received a telephone information that a man has committed murder of two women in the area of Village Partap Singh Wala. Pursuant thereto, the S.H.O. alongwith other police officials

went to the scene of occurrence and recorded the statement (Exhibit PH) of complainant Shalu, daughter of the accused. Sahlu (PW-2) disclosed in her statement that she was residing with her mother Veena Verma, sister Geetu Verma, and brother Malkiat Singh *alias* Vicky. Neetu Arora is her elder sister who is married at Khanna. Her father Mohinder Singh was staying separately. On the date of incident, i.e. 8th January, 2006, her brother Malkiat Singh went out to leave his sister Neetu in her-in-laws' house at Village Allorah. As such, only she, her mother Veena Verma, and sister Geetu Verma were present in the house. At about 6.30 P.M., her sister Geetu Verma was paying obeisance in the worship room and her mother Veena Verma was laying in the bed room. She (complainant) was also present near her mother. In the meantime, her father Mohinder Singh came inside their house through the staircase while carrying a *kulhara* in his hand. She told her mother that her father has come. When her mother Veena Verma got up and came in the lobby of the house, her father accused Mohinder Singh threatened her saying that he would teach a lesson. He gave a *Kulhara* blow on the head of Veena Verma who collapsed on the ground, and thereafter, the accused gave her two more blows with *kulhara* which struck on the finger of her hand, and second blow landed on her neck. After that, accused-appellant gave three *kulhara* blows to her sister on her head. As a result, both her mother and sister were laid in the pool of blood. The complainant, out of fear, went into the room and bolted it from inside. Afterwards, the accused appellant fled away from the spot throwing the *kulhara* there itself. The complainant raised hue and cry after coming of the house saying that her father Mohinder Singh has murdered her Veena Verma and her sister Geetu Verma. It attracted the attention of people around who gathered on the spot. Her mother Veena Verma and sister Geetu Verma had succumbed to the injuries at the spot itself. The complainant while disclosing the motive behind the occurrence narrated that her father Mohinder Singh had committed rape on her sister deceased Geetu Verma and on her statement, a case had been registered against him. Her mother Veena Verma was a witness in that case and on conclusion of the trial, the accused was convicted and sentenced. The accused had come out after serving out the sentence and wanted to oust them from the house. (However, it is told by learned counsel for the parties that the accused had been sentenced to 12 years rigorous

inprisonment and he had come out only on parole). The statement of the complainant having been recorded, S.I. Gurpreet Singh, (PW-15),—*vide* his endorsement Exhibit PH/1 sent it to the Police Station and on that basis, a formal FIR Exhibit PH/2 was recorded by ASI Som Nath. Inquest proceedings of the dead body of Veena Verma,—*vide* PC and that of Geetu Verma *alias* Gurmit Kaur,—*vide* Exhibit PF were completed. The Investigating Officer also drew the rough site plan Exhibit PCC of the scene of occurrence and lifted blood of both the dead bodies separately. He made the incriminating materials into parcel and sealed the same with his seal impression “GS”. The parcels were taken into possession,—*vide* memo Exhibit PL in respect of dead body of Veena Verma and Exhibit PM in regard to that of Gurmit Kaur *alias* Geetu Verma. the Finger Prints Expert—Pardeep Kumar (PW-9) was also summoned. He was shown the articles suspected to have been handled by the accused. The articles were examined after applying chemical powders and further, some impressions were also noticed on a window glass. Pardeep Kumar (PW-9), encircled and initialed the impressions on those articles. ASI Jagjit Singh prepared the negatives of the chance prints at the spot. The positive prints thereof which were later on prepared in finger print office, were sent to the Director, Finger Print Bureau, Phillaur, for necessary action. The report of the Bureau is Ex. PS. Constable Sucha Singh, (PW4) an official photographer in CIA Staff, Ludhiana, also visited the spot and photographed both the dead bodies. He took the photographs Ex. P-2 to Ex. P-13 and their negatives are placed on record as Ex. P-14 to Ex. P-25. The photographs were taken into possession,—*vide* Exhibit PN by the Investigating Officer. The Investigating Officer, SI Gurpreet Singh (PW-15) also prepared a rough sketch,—*vide* of the *kulhara*, weapon of offence, after recovery, which was converted into a parcel and sealed with his seal impression. The same was taken into possession by the police,—*vide* Ex. PJ. During the course of investigation, SI Gurpreet Singh, (PW 15) received an information that the accused was hiding himself in a rented accommodation in Chhoti Haibowal and pursuant thereto, he went to that place and arrested him,—*vide* memo (Ex. PU). On search of his bag which the accused was possessing his blood stained pant and shirt were recovered which were also made into parcel and taken into possession,—*vide* Ex. PX. Personal search of the accused was

conducted,—*vide* Memo (Ex. PV), and then he was lodged in police custody. The dead bodies, after inquest, were handed over to ASI Dalip Singh for post mortem examination. The post mortem of the dead body was conducted by Dr. U.S. Sooch (PW-1), Medical Officer, Civil Hospital, Ludhiana with Dr. R. S. Garewal, on police request (Ex.PB) being accompanied by Inquest Report (Ex.PC) under the direction of Dr. Manjit Kaur, then SMO,—*vide* her endorsement Ex. PB/1, whose handwriting and signatures were identified by PW/1. On examination of dead body of Veena Verma, the Doctors noticed that post mortem staining was present on the back whereas rigor mortis was present all over the body. They also noticed the following injuries :

- “1. One incised wound 6-1/2" × 2" × 5" deep placed obliquely on the right lateral side and upper part of neck with lobule of the right ear was cut through and the right mastoid bone was also cut. The soft tissues, muscles, blood vessels and second cervical vertebrae was also cut along with membrane and spinal cord.
2. Incised wound 4" × 1" brain matter deep 1" right to the mid line on the top of vertex with underneath bone membrane and brain tissues were cut.
3. Incised wound 4-1/2" × 1/2" × bone deep horizontal on the nape of neck on its lower part. The underneath muscles, soft tissues and 6th cervical vertebrae was cut along with membrane and spinal cord.
4. The left index finger was partially amputated from its lower one third with clean cut margins.

Stomach contained 250 CC of fluid mixed with blood. The intestines were pale and contained gases and faeces. All other viscera of chest and abdomen were found pale.

The cause of death in this case in the opinion of Doctors was haemorrhage and shock as a result of multiple injuries which were sufficient to cause death in the ordinary course of nature.

The time between the injuries and death was instantaneous and between death and post mortem examination was about 18 hours.

After post mortem examination, the Doctor (PW1) handed over to the police stitched dead body, carbon copy of the post mortem report, police papers (1 to 20) duly signed by him and the clothes of the deceased. Ex. PA is the carbon copy of the post mortem report and Ex. PA/1 is the carbon copy of the pictorial diagram showing the seats of injuries, on the person of deceased Veena Verma. The Doctor stated that the injuries noticed on the person of the deceased, as mentioned in Ex. PA, could result from the blows given by the *Kulhari* (Ex. P1.)”.

(3) Dr. Sooch (PW-1) and Dr. R.S. Garewal also conducted the post mortem examination on the dead body of Geetu Verma *alias* Gurmit Kaur at 3.00 p.m. on the same day,—*vide* police request (Ex. PE) being accompanied by inquest report (Ex. PF). In her case also, post mortem staining was found present on the back and rigor mortis was present all over the body. They found the following injuries on the dead body :—

- “1. Incised wound 5-1/2" × 1" × cranial cavity deep placed obliquely on the left temporal, parietal and occipital area with cut fracture of underneath bones and the membrane and brain tissue were also found cut. Clotted blood was present.
2. Incised wound 4" × 3/4" × bone deep on the mid line of the fronto parietal area with cut fracture of the underneath bones membrane and brain tissues were also cut.
3. Incised wound 2-1/2" × 1" scalp deep 1-1/2" right to the injury No. 2.
4. Incised wound 2" × 3/4" × bone deep on the left mastoid with cut fracture of left mastoid.
5. Incised wound 4" × 1-1/2" × bone deep with cut in the shirt on the lateral side of right elbow with cut fracture of right radius bone.

6. Incised wound 2" × 1/2" × bone deep on the medial side of right wrist, with cut fracture of underneath bones.
7. Incised wound 1" × 1/4" × bone deep horizontal mid front of left middle finger.
8. Two abrasions 3" × 1" and 2" × 1" on the back and upper part of left fore arm.
9. Two abrasions 1/2" × 1/2" on the front of left elbow.

The Stomach was full of fluid and food articles. Intestines contained gases and faeces. Other organs were found healthy.

The cause of death in this case in the opinion was coma and shock as a result of head injury which was sufficient to cause death in the ordinary course of nature and all injuries were *ante mortem* in nature."

Probable time between the injuries and death was instantaneous and the death and post mortem examination was about 18 hours.

They handed over to police stitched dead body, carbon copy of post mortem report, police papers (numbers 1 to 18) duly signed by him, and clothes of deceased. Ex. PD is the carbon copy of post mortem report and Ex.PD/1 is the pictorial diagrams showing the seats of injuries. The Doctor mentioned in his evidence that the injuries No. 1 to 7 noted in the post mortem report (Ex.PD) could result from the blows caused with the sharp side of the *Kulhari* (Ex. P1). whereas, the injuries No. 8 and 9 could be possible with a blow given by the wooden portion thereof.

(4) After completing the investigation SI Gurpreet Singh laid a challan against the accused under Section 302 IPC. The trial Court accordingly framed the charge to which the accused pleaded not guilty and claimed trial. During the course of trial, the prosecution produced as many as 16 witnesses namely : Dr. U. S. Sooch (PW1), Shalu (PW2),

Sunil Kumar (PW3), Constable Sucha Singh (PW4), C-II Ram Saran (PW5), HC Chamkaur Singh (PW6), Malkieat Singh (PW7), HC Gurcharan Singh (PW8), Pardeep Kumar, Finger Prints Expert (PW9), Constable Rakesh Kumar (PW10), ASI Dalip Singh (PW11), HC Bant Singh (PW12), Gurnam Singh (PW13), ASI Gurmej Singh (PW14), SI Gurpreet Singh (PW15) and Ms. Palwinder Kaur, JMIC (PW16). Some of the witnesses were given up as unnecessary. The report of the Forensic Science Laboratory (Ex.PDD) and the report of the Director, Finger Print Bureau, Phillaur (Ex. PEE) along with specimen seal impressions and photographs etc. were also tendered into evidence. The incriminating evidence and materials having been put to the accused during his examination under Section 313 Cr. P.C., were denied as incorrect by him and then he pleaded his defence as under :—

“I am innocent. I have not committed any offence as alleged, as I was not present at the time of the alleged occurrence. I have litigation with deceased Veena Verma and I am demanding my claim in the house, which I own. Sunil Kumar my brother-in-law is keeping an eye on the property and he in connivance with Mehnga Singh Khair and some other persons who deposed against me and are cited as prosecution witnesses in the case have committed the crime and falsely implicated me in this case. Moreover, my finger prints were forcibly taken on the window panes of the house after arresting me and no other finger prints were traceable in the house. The weapon of offence used in this case also does not bear my finger prints. I was picked up from my house at night time in the presence of some other persons with whom I had spent the whole day and was present with them at the time when the alleged occurrence took place”.

(5) The accused also produced three defence witnesses namely : Saudagar Singh (DW1), Rattan Lal (DW2) and Harchand Singh (DW3), to prove that he is not involved in the offence and closed his evidence.

(6) After appreciation of evidence, learned Sessions Judge found the prosecution case established beyond reasonable doubt and

the prosecution evidence worth inspiring confidence. As the manner and the gravity of the offence were found to be gruesome, abhorrent and aggravating, it was held to be falling in the category of the rarest of the rare cases and as such, has been visited with the extreme penalty of death sentence.

(7) Heard learned counsel for the parties and perused the records.

(8) Learned counsel for the appellant submitted that there was a delay of 1-1/2 hours in lodging the FIR, which was recorded at 8.05 PM, although the distance between the police station and the spot of incident is only 3 Kms. The finger prints which were lifted from the window panes/glass are a piece of evidence which is fabricated and the investigating agency had enough opportunity to manufacture such incriminating evidence in the back ground of a sworn inimical relationship between the parties. Learned counsel also contended that there is no plausible explanation as to why the Finger Print Expert summoned on the spot did not collect the finger prints supposed to be available on the handle of *Kulhara*, the weapon of offence, which was lying on the sence of occurrence. Recovery of blood stained clothes from the bag of the accused is also doubtful. The prosecution intentionally did not associate an independent witness with recovery proceedings. Further, one witness to the recovery of clothes has stated that the clothes were being stuffed in the bag whereas, the I.O. has mentioned that it was kept in the bag. Besides, the prosecution also delayed the despatch of blood stained articles to the FSL. Learned counsel referred to Ex. PT to contend that the case property including blood stained clothes of the deceased, as well as the accused, and the *Kulhara* were handed over to Constable Rakesh Kumar on 10th February, 2006, after a gap of more than one month by MHC, for depositing the said articles in the office of the FSL, Chandigarh, after obtaining a docket to be issued from the office of the S.S.P. Ludhiana. Likewise, with further delay, on 20th March, 2006, SI Gurpreet Singh (PW15) handed over the finger prints of accused Mohinder Singh and the ones lifted from the spot of incident which were attested by the Court of Ms. Palwindjit Kaur, JMIC, Ludhiana, along with two photographs, to witness Constable Rakesh

Kumar and sent him to the office of the S.S.P., Ludhiana, for obtaining a docket and depositing the articles thereafter in the office of the Finger Prints Bureau, Phillaur. According to learned counsel for the accused appellant, there is a dearth of explanation in the prosecution evidence about such delays and safe custody of those case properties during the interregnum period. Blood group of the blood stains of human origin as noticed in the report of the Chemical Examiner also could not be determined, nor was it sent for DNA test. As per the sketch of weapon of offence, the blade of *kulhara* was 7 fingers, therefore, injury No. 1 was not possible from the weapon. Learned counsel placed reliance on the statements of defence witnesses, namely : Rattan Lal (DW2) and Harchand Singh (DW3) to show that witness Shalu was not present in the house at the time of offence.

(9) On the other hand, learned Additional Advocate General, Punjab submitted that Pardeep Kumar, Finger Prints Expert (PW9), has stated that the finger-prints on the handle of *kurhara* were not available being washed out and for the surface of handle of *kulhara* being uneven, it would not have been possible to lift the impressions, if any. Learned State counsel while answering the contention of learned counsel for the appellant on delay in lodging the FIR, argued that there was no such delay as the offence was committed at 6.30 PM and the statement of the complainant (PW2) was recorded within one hour at 7.30 PM itself and then sent to the police station for recording a formal FIR. The FIR No. 6 on 8th January, 2006 was registered at 8.05 PM for the distance between the place of occurrence and the police station was 3kms. The special report was received by JMIC in the intervening night of 8th January, 2006 and 9th January, 2006 at 3.30 A.M. In the Chemical Examiner's report, all the exhibits stained with blood were found to contain human blood. Thus, the articles so recovered by the police during investigation were found to be connected with the offence. There was a motive for commission of offence, inasmuch as, the accused appellant had earlier also caused injuries to his wife in 2005. *Vide Ex. PAA*, an FIR being No. 58, dated 6th April, 2005 under Sections 324, 323 and 506 IPC was lodged by deceased Veena Verma when the accused appellant had assaulted her after coming out from the jail on parole in the rape case. Thus, according to learned counsel, there are

enough clinching incriminating materials to establish the prosecution case beyond reasonable doubt.

(10) On a careful scrutiny of rival evidence as well as rival submissions, we notice that out of 16 witnesses examined by the prosecution, testimonies of Dr. U. S. Sooch (PW1), complainant Shalu (PW2), Malkiat Singh son of the deceased (PW7), Pardeep Kumar, Finger Prints Expert (PW9), ASI Dalip Singh (PW11) and SI Gurpreet Singh, incharge of police station (PW15) are of special significance. Ex. PH is the statement of complainant Shalu (PW1) given to SI Gurpreet Singh at 7.30 PM on 8th January, 2006, the day of occurrence. Ex. PH/2 is the formal FIR which was registered under Section 302 IPC at 8.05 PM. The special report under Section 157 Cr.P.C. was dispatched,—*vide* DDR No. 21 at 9.05 PM, the same day, which was received at 3.30 AM in the intervening night of 8th January, 2006 and 9th January, 2006 by JMIC. In her statement to the police, complainant Shalu (PW2) has given a graphic description as to how the accused entered the house ; the weapon which he was carrying and used in the commission of offence ; the manner and the amount of brutality shown by him ; and as to how she had escaped his wrath and her death by running into a room and bolting it from inside. There was no delay in lodging the FIR as the statement of the complainant was recorded at 7.30 PM and even as per the statement of defence witness Rattan Lal (DW2), the police had reached the place within 20-25 minutes at the most. The complainant being a girl of tender age of about 15-16 years would have been in a state of utter shock when in the presence, her mother and elder sister of 20 years, who had earlier been subjected to rape by her accused father, were brutally murdered, and she would have regained some strength to give statement to the police only after a gap which was, however, recorded within half an hour of arrival of the police, that had swung into action on receipt of telephonic message from some unknown person. In the inquest reports (Ex. PC and Ex. PF) of the dead bodies of deceased Veena Verma and Geetu Verma @ Gurdip Kaur, the time of discovery of death has been mentioned as 7.00 P.M., which further fortifies the prosecution case that the police had arrived at the scene of occurrence within 20-25 minutes, as is also admitted by defence witness Rattan Lal (DW2). Thus, it would not be

open to gainsay the prosecution assertion that complainant Shalu (PW2) was not present on the spot or under the attending circumstances, she could not have seen the occurrence. Moreover, in her cross-examinations, PW2 has stated about the incident as :

“It is wrong to suggest that I was not present at the time of the occurrence. There are houses in our neighbourhood. I raised shrieks when my mother and sister were being murdered by my father. I did state in my police statement this fact. I raised shrieks twice or thrice, but I was silent by my father by showing kulhara to me. (confronted with Ex. PH where it is not so recorded). When I raised shrieks twice or thrice, no body was attracted to the place of the occurrence. Accused after having entered the house through stair case, chained the door of the lobby from inside. I do not recollect whether this fact was got recorded by me or not in my police statement. (confronted with Ex.PH where this fact is not recorded). It is incorrect to suggest that I did not raise shrieks, nor I raised raula after coming out of the house nor the people had gathered at the spot. When my father gave kulhara blow towards my sister, she raised her arms asking him not to do so. I do not remember, as to whether or not this fact was got recorded by me in Ex. PH (confronted with Ex. PH where it is not so recorded). When I raised alarm, after having come out of the house, first of all our neighbour either by the name of Gurcharan or Gurjit came first and then came one Fauji, who is also running karyana shop near our house. I did not ask any one specifically to make a telephone call to the police, regarding this occurrence. The residence of the mohalla of their own made telephone call informing the police in relation to this occurrence. I do not know the person who made such telephone call to police. It is wrong to suggest that I was not present at the place of occurrence and due to that reason, I did not ask any attendant at the spot to make telephone call to the police. Police came at the spot around 7 P.M. Police officials, after having entered the room of occurrence, sent us out side and

inspected the scene of crime. The house in which we are residing is the ownership of my father. I did state in my police statement as well as in the court statement that my father is not putting up with us. It is correct that he is residing in the quarter situated in Haibowal. It is correct that the relations between my mother and father were strained. It is also correct that the case of rape which was got registered by my sister, since deceased, against my father, in that my mother had appeared as a witness. It is also correct that on 6th April, 2005 my mother got registered a case against my father under Sections 323/324/506 IPC.

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When the accused showed kulhara to me I was standing in the Lobby and there after I out of fear rushed into the room. I do not know as to why my father did not attack on me with kulhari. It is wrong to suggest that I was not present at the spot and it is because of this reason, that he did not kill me. I cannot tell the time of arrival of my brother as I was wailing. He had already started for coming to the place of occurrence. It is correct that if one has to enter our house, he will have to reach there by coming through the roofs of the houses of others. I am unable to recollect that whether any neighbour told me or not that my father entered our house by coming through the roofs of the houses of the neighbour. No body told me that the accused was noticed passing through the street after having emerged out of the house after the occurrence. I was present in the lobby when I saw my father coming down stairs for entering into our house. There is a door in between the pooja room and the room of the occurrence. Again said, there is a door in between pooja room and one other room, which is bed room. It is correct that the rough site plan in this case was prepared at my pointing out. There is no door in between the pooja room and the room behind the pooja room.”

(11) As regards the contention of learned counsel for the appellant that the prosecution manufactured and fabricated incriminating evidence only after arrest of the accused, it appears from the statement of SI Gurpreet Singh (PW15) that he arrested the accused after he had already collected incriminating materials during preliminary investigation like : (i) recording statement of the complainant,—*vide* Ex. PH ; (ii) conducting inquest of the dead bodies of the deceased,—*vide* Ex. PC and Ex. PF ; (iii) preparing a rough site plan of scene of occurrence (Ex. PCC) ; (iv) lifting incriminating materials like blood stained articles which he converted into parcels and sealed with his own seal with inscription 'GS' ; (v) lifting of finger prints by Inspector Pardeep Kumar (PW9), Finger Prints Expert, from window panes etc. ; (vi) photographing of the dead bodies by the photographer ; (vii) preparation of a rough sketch of the weapon of offence and (viii) recording of the statements of witnesses on the spot. Thus, obviously, the accused was arrested after the incriminating materials had already been collected and, therefore, the argument of learned counsel for the appellant that after arrest of the accused, the police cooked up a story to falsely implicate him, would not be tenable.

(12) In regard to second contention of learned counsel for the appellant that the Finger Prints Expert did not collect finger prints from the handle of the Kulhara, the weapon of offence, we may refer to the evidence of Pardeep Kumar (PW9), Finger Prints Expert, who has stated in his cross examination as :

“I reached the spot within 30/45 minutes after receiving the information. We stayed at the spot for about one hour. My assistant, my driver and a photographer were also with me. I did not see the accused at the spot. There was a window outside the kitchen. The finger prints were lifted from the pane of that window. The finger prints were also lifted from various articles. I have not given out the detail of such articles in my report Ex. PS. I had made an attempt to lift the finger prints from the Kulhari. The finger prints on the handle of Kulhari were not available. Voluntered, the surface of the handle of Kulhari being uneven, the finger prints could not be found there. The handle of Kulhari Ex.P1

seemed to be washed off. It is incorrect to suggest that handle of Ex. P1 is not uneven. There are blood stains on the blade portion and the adjoining front portion of the wooden handle of Ex. P1. I also made an attempt to lift the finger prints from the handle of outer gate, which opens into the drawing room, but the finger prints were not available there. The finger prints were also not available on the railing of the stair case. I am unable to recollect today as to at which place, the Kulhari Ex. P1 was lying either in the lobby or in pooja room.”

(13) It appears from the reading of cross-examination as above that the Finger Prints Expert had tried to lift finger prints from the weapon of offence and its handle, but that, being not available, could not be collected, Moreover, the surface of the handle of the Kulhara was uneven, therefore, finger prints, if any, were not noticeable. Besides, its handle also seemed to be washed out. In respect of the third argument of learned counsel for the appellant that there is a contradiction between the testimonies of two witnesses about the recovery of blood stained clothes of the accused from a bag found to be in his possession at the time of his arrest (inasmuch as one witness has mentioned that the clothes were being stuffed into the bag, whereas, the I.O. has stated that the blood stained clothes were recovered from the bag in his possession), we may profitably refer to the testimonies of ASI Dalip Singh (PW11) and SI Gurpreet Singh (PW15) which need to be read carefully. ASI Dalip Singh (PW11) in his examination-in-chief has stated as :

“Accused now present in the dock was arrested,—*vide* memo Ex. PU which was attested by me and also attested by Harmesh Singh HC. Accused also signed it. Nothing was recovered from personal search of accused. A memo Ex. PV was prepared which was also signed by the accused and attested by me and aforesaid witness. On search of the bag in which the accused was stuffing his clothes, revealed a pant, stained with blood and a shirt which was also stained with blood. These clothes were covered into a parcel sealed with seals GS and were taken into possession,—*vide* memo

Ex. PX attested by me and HC Harmesh Singh.”

(14) In his cross-examinations, he has mentioned as :

“We reached house of the accused at 10.30 pm. The bag of the accused was not taken into possession. There were other clothes also in the bag, same were not taken into possession. It is incorrect to suggest that the stains of blood on the shirt Ex. 27 have been fabricated later on. It is further wrong to suggest that blood stains on pant Ex. P26 have also been fabricated.”

(15) Thus, PW-11 has clearly mentioned that on search of the bag of the accused, in which he was stuffing the clothes, his blood stained pant and shirt were recovered. The bag and other clothes were not taken in possession. The other witness SI Gurpreet Singh (PW15), who is also the Investigating Officer, has testified as :

“Thereafter I went in search of the accused. I received information regarding the place, at which the accused was hiding. I alongwith other police officials went to that place, which was rented accommodation in Chhoti Haibowal. I apprehended the accused now present in the Court. On search of the bag, which was in his possession, a blood stained pant and shirt were recovered. These clothes were also made into parcel sealed with my own seal and taken into possession,—*vide* memo Ex. PX attested by ASI Dalip Singh and HC Harmesh Singh. I arrested him formally. On his personal search, nothing was recovered. Memo Ex. PV in this regard was prepared. It was signed by the accused and attested by above mentioned witnesses. I recorded the statements of the witnesses. On return to the police station, the accused was locked in the police lock up.”

(16) Thus, in his deposition, the witness has said nothing to contradict PW-11 on his statement that the clothes were being stuffed in to the bag by the accused and to make it further clear, he has simply mentioned that on search of the bag, which was in possession of the accused, his blood stained pant and shirt were recovered. Though a

minor contradiction was highlighted out of proportion by the learned counsel for the appellant nevertheless, it now stands clarified.

(17) So far as the submission regarding non-examination of independent witnesses is concerned, we notice that only witness Sunil Kumar (PW3) is an interested witness, being the brother of deceased Veena Verma, and the other witnesses to the recovery memos are the police officials. Besides, the incident had occurred between 6.30 p.m. to 7 p.m. inside the house of the deceased ; people of the neighbourhood were equally known to the accused ; this being a case of double murder would have sent a shock wave in the locality ; and there is no such assertion that though the members of the public were available, yet, intentionally, they were not associated with the investigation by the police. Undoubtedly, this is a rule of prudence that the Court should look for independent corroboration in the prosecution evidence, but even in the absence of that, the testimonies of police officials cannot be discarded unless it is shown that they were inimically deposed towards the accused. The appellant has not come with any such instance to denude the witnesses of their independent character. In addition to that, it appears from the statement of the accused under Section 313 Cr. P.C. that he was arrested in the night from his rented premises and further, this being an incident of January month, people of the neighbourhood would not have liked to come forward to assist the police in the investigation. In a judgment reported in **Hem Raj versus State of Haryana (1)**, Hon'ble the Apex Court has held that failure to examine independent and material witness though available and failure to furnish explanation by the prosecution would not by itself give rise to adverse inference but would assume significance when evidence of alleged eye witnesses raises serious doubt about their presence at the time of occurrence. In the instant case, we do not find any reason to doubt the veracity of eye-witness accounts of Shalu (PW2) who is supported in material particulars by her brother Malkiat Singh (PW7) and her maternal uncle Sunil Kumar (PW3) to whom she had narrated the incident on their arrival on the spot disclosing the identity of accused Mohinder Singh, being her father, to have committed the offence.

(1) 2005 (10) S.C.C. 614

(18) In his cross-examinations, PW7 has stated as :

“Except Shalu nobody told me that the accused had caused injuries with kulhari on the body of my mother and sister.”

(19) Similarly, PW3 has mentioned in his cross-examinations like:

“My niece Shalu PW had told me that the murders have been committed by her father and I had also heard the people talking about Mohinder Singh having committed the murder.”

(20) As regards the delay in sending the case property to FSL and finger prints to Finger Prints Bureau, Phillaur, we do not notice any such question having been put to Constable Rakesh Kumar (PW10) in his cross-examinations, although he has tendered his evidence on affidavit (Ex. PT). Similarly, the Investigating Officer S.I. Gurpreet Singh (PW15) has also not been asked any question in his cross-examinations on the point of delay in despatch of case properties to FSL and FPB, Phillaur. Of course, sending incriminating materials well in time would have added further credibility to the prosecution case which is otherwise founded on a sound footing, but in the absence of any prejudice being caused on that account to the accused and a motive being imputed for false implication to the police, this argument merits rejection.

(21) With respect to safe custody of the case property during interregnum period between its lodgment in the police custody and its dispatch for delivery in the FSL and FPB, MHC Chamkaur Singh (PW6) has tendered his affidavit (Ex PQ) in evidence. According to him, the case property was deposited in proper condition with seals intact and before being taken to FSL, it was again found to be in proper condition. Constable Rakesh Kumar (PW10), after depositing the case property without any objection in the office of Director, FSL, Chandigarh, handed over the receipt to MHC Chamkaur Singh (PW6) which was placed on record. He has categorically mentioned in para-5 of his affidavit that, in the meantime, the case property as aforesaid, remained with him.

Neither he nor anybody else was allowed to tamper with it. In his cross-examinations, he has firmly denied a defence suggestion that the affidavit is false. Besides, no specific question was put to him his cross-examinations as regards the contention of safe custody of the property. Moreover, Ms. Palwinder Kaur, JMIC (PW16) has stated in her evidence that the finger prints of the accused were taken in open Court in her presence,—*vide* Exhibit PAA. The finger prints of the accused, so taken in the Court were later sent to the Director, Finger Prints Bureau, Phillaur, for comparison with the finger prints lifted from the place of occurrence. Like Rakesh Kumar (PW10), Investigating Officer S.I. Gurpreet Singh (PW15) has also not been asked any question on delay in despatch of finger prints to Finger Prints Bureau, Phillaur, in his cross-examinations to give his explanations.

(22) To meet the argument of learned counsel for the appellant as to the effect of not sending blood and blood stains for determination of blood groups even though the blood collected from the place of occurrence and the blood stains noticed on the clothes of the accused as well as the deceased were found to be of human origin, we may say that there was no delay in carrying out the investigation and the incriminating articles including the blood stains were collected without wasting any time. In this background, simply because the blood of the deceased found on the incriminating articles was not sent for group determination and DNA testing (which requires a definite temperature for preserving biological materials), we cannot discard the prosecution evidence particularly the eye witness's accounts which have established the prosecution case beyond a shade of doubt.

(23) Regarding the possibility of injury No. 1 located on the body of deceased Veena Verma not being caused with *Kulhara* having blade of 7 finger's size, the nature of injury would depend on the intensity of force applied and physical condition and state of body of the victim at the time of receiving injuries. Hence, this submission of learned counsel for the appellant also does not carry much weight so as to dislodge the prosecution case. Besides, Dr. U.S. Sooch (PW1) in his testimony has clarified this ambiguity while saying in his examination-in-chief that : "the injuries on the person of Veena Verma mentioned in Ex. P.A. could be the result of blows given by the kulhari

Ex. P1 seen by me in the Court today. I have seen the report Ex. PD regarding Geetu Verma. The injury Nos. 1 to 7 could be the result of blows with the sharp side of the *Kulhari* Ex. P1 seen by me today in the Court, while injuries No. 8 and 9 could be possible when a blow is given by the wooden portion of the *kulhari* P1.” In his cross-examinations also, he has replied as :

“The injuries, on the person of Veena Verma and Geetu Verma are not possible with blows from knife or by fall from above, on sharp object. The injuries on the person of both the deceased, could be possible only with sharp side of a sharp cutting heavy weapon. It is not likely that the injuries as were observed by us on the dead bodies of Veena Verma and Geetu Verma could be received in a scuffle between the two.”

(24) As regards motive, Hon’ble the Apex Court in a judgment reported in (**State of UP versus Babu Ram**) (2) has held that motive becomes relevant in all the cases whether the case is based on eye witness accounts or circumstantial evidence. In the instant case, there was a strong motive for commission of offence as is reflected from the evidences of Shalu (PW2) and her brother Malkiat Singh (PW7). Even in his statement under Section 313 Cr. P.C., the accused has stated as :—

“I have litigation with deceased Veena Verma and I am demanding my claim in the house which I own. Sunil Kumar my brother-in-law is keeping an eye on the property and he in connivance with Mehnga Singh Khair and some other persons who deposed against me and are cited as prosecution witnesses in the case have committed the crime and falsely implicated me in this case.”

(25) Shalu (PW2), complainant herein, in her cross-examinations, has stated that relations between her deceased mother and accused father were strained. She has admitted it to be correct that a case of rape was registered against her father, on the statement of her deceased sister, in which her mother had appeared as a witness. The

witness has also stated that on 6th April, 2005, her mother had lodged an FIR against the appellant under Sections 323, 324 and 506 IPC for causing her injuries. DW2 has also admitted that he had heard about registration of a case against the accused-appellant at the instance of his wife deceased Veena Verma for causing injuries to her. Malkiat Singh (PW7) has stated that the accused, his father, was compelling his deceased mother to vacate the entire kothi. The accused having inflicted injuries to himself had falsely lodged a case against him (PW7) and his deceased mother Veena Verma, which was, later on, cancelled. Thus, the foregoing prosecution evidence clinches to prove that the accused had a strong motive which impelled him to commit two gruesome murders, not of any alien, but of his wife and daughter.

(26) In addition to the aforesaid, the evidence of other prosecution witnesses on record also lends complete support to the prosecution case. Constable Sucha Singh, official Photographer (PW4), has stated that he received a message at 8.00 P.M. to reach the scene of occurrence and having visited there, he photographed two dead bodies at 8.30 PM and prepared photographs (Ex. P2 to Ex. P13) and their negatives (Ex. P14 to Ex. P25) ; Constable Ram Saran (PW5) deposed that he prepared a scaled site plan (Ex. PO) ; and Constable Gurcharan Singh (PW8) has stated on affidavit (Ex. PR) that he was sent by IO/SHO Gurpreet Singh (PW15) at 7.30 PM along with statement of complainant Shalu (PW2) to the police station for registration of an FIR and he returned to the spot of incident with a copy thereof at 9.05 PM. With regard to deposition of ASI Dalip Singh (PW11), he has supported the IO in material particulars in respect of investigation conducted by him. HC Bant Singh (PW12) produced the record of FIR No. 27, dated 20th July, 1999 in the Court which had been lodged against accused Mohinder Singh under Sections 376 and 506 IPC on the statement of his deceased wife Veena Verma for committing rape on her deceased daughter Geetu Verma wherein the accused was convicted on 15th May, 2001. He has proved the FIR No. 27 as Ex. PZ. He also produced the record of FIR No. 58, dated 6th April, 2005 registered under Sections 323, 324 and 506 IPC on the statement of deceased Veena Verma against the accused for causing assault and giving threat to her, and has proved the FIR as Ex. PAA. Gurnam Singh, Ahlmad (PW13), produced the record of

criminal case No. 2531, dated 1st August, 2005 (FIR No. 58 of 2005 under Sections 323, 324 and 506 IPC) to show that the said criminal case was pending in the Court of JMIC, Ludhiana. ASI Gurmej Singh (PW14), who also submitted his evidence on affidavit (Ex. PBB) had carried the special report at 3.30 AM, and delivered it to the Duty Magistrate.

(27) In the premises discussed herein above, and on a careful reappraisal of the rival evidence, we are of the view that the prosecution has successfully brought home the charge of committing murder of Veena Verma and her daughter Gurmit Kaur @ Geetu Verma under Section 302 IPC against the accused-appellant. Presence of complainant and eye witness Shalu (PW2) aged about 15-16 years at about 6.30-7.00 PM in the evening in the winter season of January month with her mother and sister inside her house was quite natural. Even in the evidence of defence witnesses, namely, Rattan Lal (DW2) and Harchand Singh (DW3), it has come that the complainant was seen coming from the side of Gaudham at about 6.30 PM and after reaching, she went inside her house. After about two minutes, she started raising alarms about the incident. The eye witness accounts of the complainant is supported by the recoveries effected during the course of prompt investigation by the police ; the medical evidence ; inquest, FSL and Finger Prints reports, and the statements of Malkiat Singh (PW7) brother of the complaint ; Sunil Kumar (PW3) maternal uncle of the complainant, and also the testimonies of official witness ASI Dalip Singh (PW11), SI Gurpreet Singh, IO (PW15), Pardeep Kumar, Finger Prints Expert (PW9), MHC Chamkaur Singh (PW6) and Constable Rakesh Kumar (PW10), apart from other incriminating materials on record.

(28) In view of the above discussion, we do not find any infirmity in the prosecution case and the conclusion arrived at by learned Sessions Judge, being based on sufficient evidence on record, is, hereby, affirmed.

(29) As regards the confirmation of death sentence submitted in Murder Reference before us, learned counsel for the State submitted that the accused has committed double murder of his wife and daughter in a gruesome manner in the background of a highly inimical relationship

between the parties on account of criminal cases registered against the accused at the instance of his deceased wife, and daughter (wherein, he was punished with a sentence of 12 years RI for committing rape on his deceased daughter Geetu Verma) and in that case his wife was a witness. He had also attacked his wife after release on parole, therefore, an FIR was registered against him. Thus, the offence, which was committed in a diabolical manner by the accused in the presence of his youngest daughter Shalu (PW2), a girl of tender age, sent a shock wave around, giving an impression that he is a menace to the society.

(30) On the other hand, learned counsel for the accused-appellant submitted that looking to the facts and circumstances of the case, the accused-appellant does not deserve to be visited with the extreme penalty of death sentence for this case may be excluded from the purview of guidelines as laid down by Hon'ble the Apex Court in the Constitution Bench Judgment reported in (**Bachan Singh versus State of Punjab** (3) and the subsequent judgment reported in (**Machhi Singh and others versus State of Punjab**) (4) to be followed before bringing a case of murder in the category of the rarest of rare cases. He tried to build up a case of strong mitigating circumstances by referring to para 109 of the judgment of Hon'ble the Apex Court reported in (**Rajendra Prasad versus the State of Uttar Pradesh**) (5).

On reproduction, the said para reads as :

“109. Three deaths are regrettable, indeed, terrible. But it is no social solution to add one more life lost to the list. In this view, we are satisfied that the appellant has not received reasonable consideration on the question of the appropriate sentence. The criteria we have laid down are clear enough to point to the softening of the sentence to one of life imprisonment. A family feud, an altercation, a sudden passion, although attended with extraordinary cruelty, young and malleable age, reasonable prospect of reformation and

(3) (1980) 2 S.C.C. 684

(4) (1983) 3 S.C.C. 470

(5) AIR 1979 S.C. 916

absence of any conclusive circumstance that the assailant is a habitual murderer or given to chronic violence—these catena of circumstances bearing on the offender call for the lesser sentence.”

(31) On a careful appreciation and proper scrutiny of the aggravating and the mitigating circumstances as canvassed in rival submissions, we are of considered view that the Murder Reference deserves to be accepted and the death sentence needs to be confirmed.

(32) With utmost respect to the aforesaid observations of Hon’ble the Apex Court in Rajendra Prasad’s case (*supra*), we find it difficult to persuade ourselves to accept the submissions of learned counsel for the appellant advanced by placing reliance on the said observations of Hon’ble the Apex Court for the reason that this, being a case of double murder of two helpless ladies, had not resulted from an altercation or a sudden passion on account of family feud, but rather the accused committed the offence in a pre-planned and systematic manner while shedding the attributes of a sincere husband, an affectionate father, and above all, a human being at a time when only the victims, being the lady inmates of the house, were present and the accused had full opportunity to wreak vengeance on them for prosecution of the case under Section 376 and 506 IPC leading to his conviction and consequent sentence of 12 years RI recorded for committing rape on his daughter deceased Geetu Verma, a minor in 1999 and also for lodging a criminal case under Sections 324, 323 and 506 IPC which was pending in the Court of JMIC, Ludhiana for causing assaults to deceased Veena Verma. In this background, keeping a hope against hope, that given a chance, the accused may reform himself would only prove to be a disappointment.

(33) Hon’ble the Apex Court in Machhi Singh’s case (*supra*) held that :

“.....When ingratitude is shown instead of gratitude by killing a member of the community which protects the murderer himself from being killed, or when the community feels that for the sake of self-preservation, the killer has to be killed, the community may well withdraw the protection by sanctioning the death penalty. But the community will not

do so in every case. It may do so 'in rarest of rare cases' when its collective conscience is so shocked that it will expect the holders of the judicial power centre to inflict death penalty irrespective of their personal opinion as regards desirability or otherwise or retaining death penalty.....”

(34) The Hon'ble Court thereafter encapsulated the circumstances which may help a Court in finding out and forming opinion as to whether a case of murder would fall in the category of the rarest of rare cases. The said circumstances are reproduced as :

I. Manner of commission of murder :

When the murder is committed in an extremely brutal, grotesque, diabolical, revolting or dastardly manner so as to arouse intense and extreme indignation of the community. For instance,

- (i) when the house of the victim is set aflame with the end in view to roast him alive in the house.
- (ii) when the victim is subjected to inhuman acts of torture or cruelty in order to bring about his or her death.
- (iii) when the body of the victim is cut into pieces or his body is dismembered in a fiendish manner.

II. Motive for commission of murder :

When the murder is committed for a motive which evinces total depravity and meanness. For instance when (a) a hired assassin commits murder for the sake of money or reward (b) a cold blooded murder is committed with a deliberate design in order to inherit property or to gain control over property of a ward or a person under the control of the murderer or vis-a-vis whom the murderer is in a dominating position or in a position of trust, or (c) a murder is committed in the course for betrayal of the motherland.

III. Anti-social or socially abhorrent nature of the crime :

- (a) When murder of a member of a Scheduled Caste or minority community etc. is committed not for personal reasons but in circumstances which arouse social wrath. For instance, when such a crime is committed in order to terrorize such persons and frighten them into fleeing from a place or in order to deprive them of, or make them surrender, lands or benefits conferred on them with a view to reverse past injustices and in order to restore the social balance.
- (b) In cases of bride burning and what are known as dowry deaths or when murder is committed in order to remarry for the sake of extracting dowry once again or to marry another woman on account of infatuation.

IV. Magnitude of crime :

When the crime is enormous in proportion. For instance when multiple murders say of all or almost all the members of a family or a large number of persons of a particular caste, community, or locality, are committed.

V. Personality of victim of murder :

When the victim of murder is (a) an innocent child who could not have or has not provided even an excuse, much less a provocation, for murder (b) a helpless woman or a person rendered helpless by old age or infirmity (c) when the victim is a person vis-a-vis whom the murderer is in a position of domination or trust (d) when the victim is a public figure generally loved and respected by the community for the services rendered by him and the murder is committed for political or similar reasons other than personal reasons.”

(35) In this background, Hon'ble the Apex Court called out the guidelines from the discussions in the Constitution Bench judgment in

Bachan Singh's case (*supra*), which are to be followed before awarding death sentence in a case of murder. The said guidelines are as :

- “(i) The extreme penalty of death need not be inflicted except in gravest cases of extreme culpability.
- (ii) Before opting for the death penalty the circumstances of the ‘offender’ are require to be taken into consideration alongwith the circumstances of ‘crime’.
- (iii) Life imprisonment is that rule and death sentence is an exception. Death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided, and only provided, the option to impose sentence of imprisonment for life cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances.
- (iv) A balance sheet of aggravating and mitigating circumstances has to be drawn up and in doing so, the mitigating circumstances has to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised.”

(36) Now coming to the facts of the instant case, the victim ladies while being occupied with their daily chores were absolutely unprepared for a brutal killing at the hands of the accused who was in a dominating position in respect of relationship as well as in physical strength *qua* the victims inasmuch as he was a husband and a father to them and there is nothing on record to show that he was infirm or was suffering from any ailment or disability and, therefore, could not have been in a position of dominance. Moreover, he had entered the scene of occurrence while carrying the deadly weapon of offence (*Kulhara*) which alone was used in the commission of both the killings. As regards the enormity of offence, out of three family members and that too only ladies, present in the house, two being wife and daughter were done to death by the accused in a brutal and horrendous manner in total disregard to element of trust in relationship that, of course, the

accused had betrayed when he had committed rape on his deceased minor daughter in 1999. The third and the youngest daughter of tender age being the complainant (PW2), in whose presence both the killings were perpetrated, somehow managed to escape the death by running into a room and bolting it from inside. Moreover, the offence was committed not only to take revenge, but also for personal gain as the accused-appellant wanted to get the house, occupied by the deceased vacated for his own use.

(37) To sum up, we notice the following special reasons to confirm the death sentence :

- (1) The accused had earlier committed rape on his deceased daughter Geetu Verma in 1999 when she was a minor after giving beatings and threat to her and in that case his wife deceased Veena Verma was a witness and that : case under Sections 376 and 506 IPC finally resulted in conviction and the consequent sentence of 12 years' RI that the accused was visited upon with ;
- (2) While on parole in January, 2006, the accused having violated the conditions of release attacked his wife Veena Verma and for that offence, an FIR under Sections 323, 324 and 506 IPC was registered against him which was pending in the Court of JMIC, Ludhiana on the date of alleged occurrence ;
- (3) The accused got registered a false criminal case against his deceased wife Veena Verma and son Malkiat Singh (PW7) having inflicted injuries to himself and that FIR was later cancelled. The conduct of the accused as such shows a strong intention on his part to harm the deceased ;
- (4) The accused entered the house with a deadly weapon *Kulhara* and caused unprovoked brutal attacks on the victim ladies while his son was away having gone to drop his eldest sister in her matrimonial home. The accused caused repeated blows on the vital parts of their bodies resulting in instantaneous deaths in presence of his youngest daughter

of tender age who by running into a room and bolting its door from inside saved herself when the accused proceeded towards her and showed the *kulhara* to her ;

- (5) The appeal filed by the accused against the judgement of conviction and sentence under Section 376 and 506 IPC was pending in the High Court on the date of offence when by taking the law in his hands, the accused committed the murder of his wife and daughter in a brutal and diabolical manner ;
- (6) The accused committed the murder with full determination while uttering before the deceased and the complainant (PW2) that they would not be left alive and would be taught a lesson. The accused thereafter gave first blow to Veena Verma from behind with *Kulhari* on her head (in dastardly manner). She fell down on the ground and afterwards he caused successive *Kulhara* blows on her neck and the head (in brutal, grotesque and diabolical manner). Therefore, he attacked his daughter Geetu Verma when she was paying obeisance in her workshop room and caused repeated *kulhara* blows to her death (again in brutal, grotesque, diabolical, revolting and dastardly manner). Further-thereafter, he proceeded towards his youngest daughter Shalu (PW2) and showed her *kulhara*, who ran into a room and bolted it from inside ;
- (7) In the case of deceased Veena Verma out of 4 incised wounds, injuries Nos. 1 and 2 were caused on head, 3rd one on neck and injury No. 4 resulted in partial amputation of left index finger from 1/3rd with clean cut margins. Regarding deceased Geetu Verma, who had been earlier subjected to diabolical act of rape by the accused during minority in 1999, as many as 9 injuries were caused, out of which 7 were incised wounds and 2 were abrasions. Further, 3 out of 7 incised wounds had been caused on head region itself, 4th on the left mastoid, and rest 3 on left and right elbow, and fingers. In both the cases, the victims died instantaneous death ;

- (8) Apart from taking revenge for his conviction and sentence, as aforesaid, the accused has committed this offence for personal gain as he wanted the house, being occupied by the deceased, to be vacated for his personal use, and
- (9) Hon'ble the Apex Court in a case with similar background had confirmed death sentence in its judgment reported in **Umashankar Panda versus State of Madhya Pradesh (6)**, where the accused had committed murder of his wife and two children without any provocation and had also caused grievous injuries to rest three, who somehow managed to escape death. The facts and evidence of that case as noticed in paras 16-17 and 18 of the judgment are as :

“16-17. Now, let us look into the way the accused had carried out the murder of his wife and two his children and caused grievous injuries to the rest of his children in the course of his attempt to liquidate them also. From the evidence which has been accepted by the trial Court and the High Court, the following emerges :

On 20th February, 1994, the accused, his wife and all the five children took their dinner together before going to the bed and had also viewed the programme on the television. The accused along with his family members slept in a room. At about 12-1 on the intervening night of 20th and 21st February, 1994, the accused started to kill his wife with the help of a sword and on hearing the shoutings the children woke up. The wife questioned the accused why he was trying to kill her and the accused without giving any answer inflicted more injuries on her head, hand and foot. By that time, the eldest daughter Rekha tried to save her mother and instead of leaving his wife from attack, he started inflicting wounds on his first daughter Rekha with the same sword. Not satisfied with that, he also inflicted injuries with the same sword to another

daughter and finding that the sword he had used had been bent, he left that sword and took out another big sword, kept in a box in the room, and with the help of the second sword, he inflicted injuries to the other children. All the injured persons fell down as seen earlier, the wife and two children succumbed to their injuries and the other three children escaped death. It is also in the evidence of PW7 Rora that the accused after committing the crime, confessed to him (PW7) stating "I had slaughtered all of them, how the three left alive". The above attitude of the accused clearly reveals that he had caused injuries with a view to liquidate all the members of his family and he was not happy to find that in spite of his act his three children had escaped from death.

18. We have already given details of the injuries inflicted on the deceased persons as well as on the children who escaped death. we find that the accused had caused in all 64 sword injuries to all the six persons including the three deceased persons and those injuries speak for themselves about the gruesome nature of the crime committed by the accused. Be it noted that there was no provocation and there is nothing to suggest that there was any quarrel between the accused and his wife or among any one of the family members. The way in which the crime was executed clearly shows that it was a premeditated one and not on account of sudden provocation or any 'mental-derange'. The motive suggested in the cross-examination of the prosecution witness is also not helpful to the accused inasmuch as he has pleaded alibi in his statement (under Section 313 Cr. P.C.) and that has also been taken note of by the trial Court as well as by the High Court. As pointed out earlier, both the Sessions Judge and the High Court have given special reasons for awarding death sentence and we are also of the opinion that the crime indulged

by the accused is undoubtedly gruesome, cold blooded, heinous, atrocious and cruel. We are also satisfied that on the facts established on the record, there appears to be no mitigating circumstance whatsoever, but only aggravating circumstances which justify the imposition of death sentence. If we look into the manner in which the crime was committed, the weapon used, the brutality of the crime, number of persons murdered, the helplessness of the victims, we cannot come to any other conclusion except the one, the Sessions Judge and the High Court arrived at to award the capital sentence to the appellant.”

(38) In the case in hand, the accused had earlier committed rape on his deceased daughter who was then a minor while holding threat and giving beatings to her and since that act had been reported to the police, leading to his conviction and sentence, he was looking for an opportunity to wreak vengeance on his deceased wife and daughter, and that is why, earlier also, he had caused assaults on his deceased wife Veena Verma. Thus, instead of repenting for his misdeeds, while being under a sentence of 12 year’ RI under Section 376 IPC for committing rape which is punishable with maximum sentence of life imprisonment, he remorselessly indulged in another diabolical act of committing double murder of victim of rape (his daughter) and witness in that case (his wife). In this background, looking for a strong mitigating circumstance, may not yield any result and this offence has in fact, ceased to remain a simple case of murder. This has rather acquired an enormity to the extent of rushing into the category of the ‘rarest of rare cases’.

(39) In view of the aforesaid special reasons recorded by us in the light of the guidelines laid down in various decisions by Hon’ble the Apex Court, we find ourselves in complete agreement with the conclusion arrived at by the learned trial Court. However, before parting with the judgment, we may like to note that in the medical evidence, reproduced and discussed in the impugned judgment (also in certified copy of original judgment issued under the signatures of learned Sessions Judge), passed by learned District & Sessions Judge,

Ludhiana (Shri G. K. Rai), word 'membrance' instead of word 'membrane' is mentioned and under the details of injury No. 4 in the injuries report of deceased Veena Verma, a word 'velvelled' is typed which we could not find in any dictionary and even the High Court doctors on being consulted showed ignorance about the existence of any such 'term' in medical science.

(40) Moreover, in para 37 of the judgment, learned Sessions Judge while eulogizing the task of a Judge in passing orders of sentence has mentioned as : "to my mind, sentencing is a delicate task requiring an inter-disciplinary approach and calls for skills and talents..". In our view, passing of an order of sentence may require more of care, caution and self restraint than talent and skill of a Judge, particularly, in cases of awarding the extreme penalty of death sentence. Such types of cases are unforunate and exceptional wherein, the courts have to take hard decisions in order to respect sentiments of the community in terms of the guidelines laid down in the judgments of **Bachan Singh** and **Machhi Singh's** cases (*supra*) and other subsequent judgment of Hon'ble the Apex Court on this subject which are to be followed arriving at a conclusion that a case of murder would fall in the category of the rarest of rare case.

(41) In view of the aforesaid, in order to ensure that medical evidence is placed on Court records in correct and clear terms and also that Presiding Officers of Courts do not take it lightly, we direct the Registrar (Judicial) to issue instructions to Secretaries (Health) and Director General/Directors (Health Services), and Presiding Officers of Courts in Punjab, Haryana and U.T., Chandigarh, that at the time of recording of evidence of Doctors, who are produced as expert witnesses, Courts shall ask them (Medical Doctors etc.) to submit medical reports on affidavit in clear terms with correct spelling.

(42) In the premises discussed herein above, Murder Reference No. 8 of 2007 is hereby accepted and the death sentence is confirmed. Resultantly, Crl. Appeal No. 1033-DB of 2007 (**Mohinder Singh versus State of Punjab**) stands dismissed.

R.N.R.