

**NON-REPORTABLE**

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO.1613 OF 2018**

**SANDEEP**

**...APPELLANT**

**VERSUS**

**STATE OF HARYANA**

**...RESPONDENT**

**WITH**

**CRIMINAL APPEAL NO.1614 OF 2018**

**CRIMINAL APPEAL NO.1615 OF 2018**

**AND**

**CRIMINAL APPEAL NO. \_\_\_\_\_ OF 2021**

[Arising out of Review Petition (Crl.) No. \_\_\_\_\_ of 2021 (D.No.6662 of 2020)]  
(Arising out of Special Leave Petition (Crl.) No.8789 of 2014)

**J U D G M E N T**

**UDAY UMESH LALIT, J.**

1. Delay in filing Review Petition (Crl.) Diary No. 6662 of 2020 in Special Leave Petition (Crl.) No.8789 of 2014 is condoned. The Review Petition is allowed and the order dated 15.12.2014 passed by this Court dismissing Special Leave Petition (Crl.) No.8789 of 2014 is recalled. The Special Leave Petition is restored to the file of this Court. Leave granted.

2. These appeals arise out of the common judgment and order dated 30.05.2014 passed by the High Court of Punjab and Haryana at Chandigarh dismissing Criminal Appeal No.D-372-DB of 2009 and thereby affirming the conviction and sentence of all the appellants in respect of the offences punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860 (for short, "the IPC") and under Section 25 of the Arms Act, 1959 qua Appellant-Pardeep.

3. The appellants namely; (i) Pardeep son of Sh. Ishwar Singh, (ii) Ishwar Singh son of Sh. Ram Singh, (iii) Sandeep son of Sh. Ishwar Singh and (iv) Krishana wife of Sh. Ishwar Singh, R/o Vill. Lehrara, Distt. Sonapat were tried in the Court of Additional Sessions Judge/ Fast Track Court, Sonapat, Haryana in Sessions Case No.14-RBT of 2007-2008 for having committed the aforementioned offences.

4. The crime was registered pursuant to First Information Report No.62 of 2007 lodged with Police Station Sadar, Sonapat at about 1.30 pm on 13.4.2007. The information given by Rajbir Singh son of Sia Ram who was later examined as PW-1 in the trial, was to the following effect:

".... The residences of mine and that of Ishwar s/o Ram Singh are adjacent to each other. Ishwar is the son of my uncle (Tau). Behind our houses there is a common street, which had been tried to be encroached many times by Ishwar's family. Last time said street was unblocked with the intervention of the previous panchayat. Four days earlier, my

sister is law (Bhabhi) and Ramesh Kumar got replaced the karies of their old house, waste material of which was kept back side in the street. Owing to keeping of this material in the street, there was altercation between the two families, since Ishwar was pressing for picking up the material at once. Today on date 13.4.07 at about 7.15 AM Ishwar and Pardeep, Sandeep s/o Ishwar and Krishana w/o Ishwar r/o same village started abusing my sister in law Kaushalya. I, my mother Harkaur, my brother Surinder and his wife Preeti tried to console them that why they are abusing Kaushalya. Labours have been called at 8.00 AM. We would then remove the material, but on hearing so, they then were shouted and Ishwar and his wife Krishana told their sons Pardeep and Sandeep to teach a lesson for quarrelling with us and for putting material in the street and to shoot them. On saying so, Pardeep stood at his room with weapon. Then Sandeep told to shoot them. Pardeep fired a shoot with his weapon to Surender, which hit Surender at the left side of his head, with that fire Surender fell down there and succumbed at the spot. I took him to Government Hospital in my vehicle of my brother, where the doctors declared him dead and dead body was house in mortuary.....”

5. The post mortem was conducted on the body of the deceased – Surender by Dr. S.P. Sharma, M.O., Civil Hospital, Sonapat (later examined as PW-5 in the trial) who found the following ante-mortem injuries:

“i. A penetrating lacerated wound over left temporal areas of the skull of size 2.5 cm x 1.5 cm with inverted with a collar of abrasion at its upper part and going posteromedially and downwards to right occipital parietal area (on Probing) oozing blood. On dissection the tract was penetrating through the left temporal bone, brain covering i.e. dura and brain matter up to the right occipital lobe. The cranial cavity was full of semi clotted blood. A metallic bullet was lying in the right occipital lobe of brain with deformed shape. Bullet was removed and sealed in a glass vial bearing two seals.

- ii. Blood was coming out of mouth and both nostrils.  
Rest of the organs are healthy and pale.”

6. After arrest, the statement of the accused – Pardeep led to the recovery of the firearm. Said firearm and the projectile recovered from the body of the deceased, among other things, were sent for analysis to the Forensic Science Laboratory, Madhuban, Karnal, Haryana. The relevant portion of the report which was placed on record in view of Section 293 of the Code of Criminal Procedure, 1973 and exhibited in the trial was to the following effect:

**“RESULT**

1. The country-made pistol marked W/1 (chambered for .315" cartridges) is defined in Arms Act 54 of 1959. Its firing mechanism was found in working order.
2. The .315" fired bullet marked BC/1 has been fired from country-made pistol marked and not from any other firearm even of same make and bore, because every firearm has got its own individual characteristic marks."

7. The prosecution examined 14 witnesses in support of its case. PW-1, Rajbir Singh son of Sia Ram, PW-2 Kaushalya wife of Ramesh Kumar, (Sister-in-Law of the deceased), and PW-3, Preeti wife of Late Surender (widow of the deceased) were examined as eye-witnesses to the occurrence. Their version was identical to that stated in the First Information Report and nothing substantial could be drawn by the Defence from their cross-examinations. It was, however, projected by the

Defence that accused-Pardeep had taken the deceased to the hospital for medical attention and that his name figured in the Post Mortem Report as well as in the Inquest Report.

8. Accepting the case of the prosecution, the Trial Court by its judgment order dated 18.03.2009 found all the accused guilty of the offences with which they were charged. It was observed that the common intention stood proved from the fact that accused Ishwar, Krishana Devi and Sandeep had exhorted accused-Pardeep and, on their instigation, accused-Pardeep went to the roof of the house, armed with Pistol and fired at the deceased.

9. The Trial Court, thus, convicted and sentenced all the accused to suffer life imprisonment for having committed offences under Sections 302 read with 34 IPC and imposed fine in the sum of Rs.5,000/- each with default sentence of six months. Accused-Pardeep was separately convicted under Section 25 of the Arms Act, 1959 and was awarded sentence of one year with the imposition of fine with a sum of Rs.500/- with a default sentence of 10 days.

10. All the accused filed a common appeal being Criminal Appeal No.D-372-DB of 2009, which was dismissed by the High Court vide its judgment and order dated 30.05.2014. While confirming the view taken

by the Trial Court, the High Court dealt with the issue whether Pardeep was present during the Inquest Proceedings and how his name had appeared in the Post Mortem Report. Paragraph 30 of the judgment dealt with these issues and finally, it was found by the High Court that the presence of Pardeep in the Government Hospital, Sonapat was not at all established and the defence taken by him stood falsified.

11. Krishana Devi being aggrieved by the order of conviction and sentence approached this Court by filing Special Leave Petition (Cr1.) No.8789 of 2014, which was dismissed by this Court vide order dated 15.12.2014 as stated above.

12. Thereafter, the petitions preferred by the co-accused namely; Sandeep, Pardeep, and Ishwar came up and this Court was pleased to grant Special Leave to Appeal.

13. The Review Petition filed by Krishana Devi against the dismissal of her Special Leave Petition was then ordered to be heard along with the appeals preferred by co-accused.

14. In these circumstances, all four appeals are being considered by us.

15. Mr. B. Adinarayan Rao and Mr. Siddhartha Dave, learned Senior Advocates appearing for the appellants submitted:

(A) All the eyewitnesses came out with a parrot-like version and considering the enmity between two sides, their version could not have been relied upon.

(B) The presence of accused Pardeep at the Hospital was established through the Inquest Report and the Post Mortem Report.

(C) It would be impossible to believe that if Pardeep was the assailant, he would have taken the deceased for medical attention.

(D) The disclosure statement of accused-Pardeep as well as all the relevant documents were attested by PWs 1, 2, and 3 and no independent witness was associated with the recording of any such statement or recoveries.

16. Mr. Deepak Thukral, learned Deputy Advocate General appearing for the State submitted:

(A) The First Information Report was lodged within few hours of the incident.

(B) The reasoning given by the High Court while rejecting the submission about the presence of accused Pardeep was sound and correct and did not call for any interference.

(C) The earliest version given by the witnesses was corroborated by the medical evidence.

(D) The weapon of offence recovered at the instance of accused-Pardeep was associated with the offence as per the report of the Forensic Science Laboratory.

17. We have considered the rival submissions and have gone through the record. In our view, the statements of the eyewitnesses are quite cogent and consistent with the earliest version recorded in the form of the First Information Report. The trajectory of the entry of the bullet as found in the Medical Report is also quite consistent with the version that the deceased was shot from a height *i.e.* the roof of the house.

18. Considering the material on record including the eyewitness's account as well as the corroborative pieces of material, it is firmly established that the accused Pardeep fired the fatal shot from the roof of the house. The involvement of accused-Pardeep is thus beyond any doubt.

19. We now come to the role played by the other accused in the transaction. The role ascribed to Ishwar and Krishana, the parents of accused-Pardeep was of initial exhortation. The parents were stated to have exhorted the sons; accused-Pardeep and accused-Sandeep to teach



a lesson to the deceased-Surender. It is upon such exhortation that accused-Pardeep had gone inside, collected the firearm and reached the rooftop; and while he was there at the rooftop, the crucial exhortation came from the accused-Sandeep.

20. Thus, all three accused are said to have exhorted accused-Pardeep but the exhortation given by accused-Sandeep was immediately before the shot was fired and of a greater impact in as much as he had seen accused-Pardeep at the rooftop along with the firearm and then made the exhortation.

21. Considering the entirety of the circumstances, in our view, accused Ishwar and accused Krishana Devi are entitled to benefit of doubt whereas the involvement of accused Sandeep stands completely proved beyond reasonable doubt.

22. We thus find that that the case of prosecution stands proved against accused-Pardeep and accused-Sandeep and their appeals deserve to be dismissed while the appeals preferred by accused-Ishwar and Krishana Devi deserve acceptance.

23. Consequently, Criminal Appeal Nos.1613 and 1614 of 2018 preferred by accused-Sandeep and Pardeep respectively are dismissed

while Criminal Appeal No.1615 of 2018 preferred by accused Ishwar and Criminal Appeal arising out of Special Leave Petition (Crl.) No.8789 of 2014 preferred by Krishana Devi are allowed. The accused Ishwar and Krishana Devi be released forthwith unless their custody is required in connection with any other offence.

24. Ordered accordingly.

.....J.  
(UDAY UMESH LALIT)

.....J.  
(AJAY RASTOGI)

**NEW DELHI,  
AUGUST 27, 2021**