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ITEM NO.105

COURT NO.9

SECTION IIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 959-960 OF 2005

SURINDER SINGH AND ORS.

Appellant (s)

VERSUS

STATE OF PUNJAB

Respondent(s)

(With office report)

Date: 16/09/2009

These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI

HON'BLE MR. JUSTICE J.M. PANCHAL

For Appellant(s)

Mr. Loknath Rath, Adv.

Dr. Sushil Balwada, Adv.(A.C.)

For Respondent(s)

Mr. Kuldip Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard the learned counsel for the parties.

The appeal is dismissed in terms of the signed order.

The learned Amicus Curiae will have his fee of

Rs.7,000/-

(KALYANI GUPTA)
SR. P.A.

(VINOD KULVI)
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE.]

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.

959-960 OF 2005

SURINDER SINGH & ORS.

.....

APPELLANTS

VERSUS

STATE OF PUNJAB

.....

RESPONDENT

O R D E R

We have heard the learned counsel for the parties.

The deceased Balbir Kaur was the wife of Surinder Singh and the daughter-in-law of the other two appellants. As per the allegations which have been found to be proved by the trial court as well as the High Court, Balbir Kaur had been burnt by the three appellants on 24th April 2000. The courts below have relied upon the dying declaration made by the deceased before Shri M.P. Singh Pahwa, Judicial Magistrate, First Class, Tanakpur - P.W. 6 at about 11:40 a.m. on the 25th April, 2000 in the Civil Hospital, Jalandhar.

In this dying declaration which formed the basis of the First Information Report, the aforementioned story has
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been given by the deceased. The courts below have noticed that there was no cross examination of P.W. 6 with respect to the manner and content of the dying declaration.

When this matter came up before this Court on 11th April, 2005, the following order was made:

"It is submitted that the evidence of DW 3 Kuldip Singh son of Surinder Singh has not at all been considered by the High court and even though ;the trial court has noticed his evidence, it has not recorded any reason to disbelieve him. If he is believed, this was a case of suicide.
Issue notice."

We have, accordingly, examined the evidence of

DW 3 - Kuldip Singh, the son of the deceased and
appellant Surinder Singh. We find from his evidence

that he was at the relevant time nine or ten years of
age and he gave a statement on 14th April, 2002
exonerating the appellants of any wrong doing and
suggesting that his mother had committed suicide. In

his examination in chief, however, he admitted that he
was living with Paramjit Kaur, wife of Sukhdev Singh,
Surender Singh - appellant No. 1's younger brother. It

is, therefore probable that this statement has come
about on account of tutoring by the defence and D.W.3
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has come on record in order to save his father and
salvage a part of the family as his mother was already
dead.

We must also observe that there is absolutely no
reason to doubt the dying declaration which clearly
falsifies the story projected by D.W. 3 Kuldip Singh.

We thus find no merit in this appeal which is,
accordingly, dismissed. The learned Amicus Curiae will
have his fee of Rs. 7,000/-

.....J
[HARJIT SINGH BEDI]

.....J
[J.M. PANCHAL]

NEW DELHI
SEPTEMBER 16, 2009.
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