

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). 633 OF 2006

VIJENDER SINGH

Appellant (s)

VERSUS

STATE OF HARYANA

Respondent(s)

(With appln(s) for bail and office report)
WITH SLP(Crl) NO. 1393 of 2007
(With office report)

Date: 25/11/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s) Mr. S.P.Mittal, Adv.
Mr. R.N. Keshwani,Adv.
Mr. Ram Lal Roy, Adv.

Mr. Ravindra Keshavrao Adsure, Adv.(NP)

For Respondent(s) Mr. Kamal Mohan Gupta,Adv.(Not present)

UPON hearing counsel the Court made the following
O R D E R

The Appeals are allowed in terms of the signed order and the impugned judgment of the courts below convicting the accused are set aside. Accused Vijender Singh is on bail. His bail bonds shall stand discharged. Accused Prashant Kumar appears to be in the jail. If he is in jail, he shall be released forthwith, if not required in any other case.

(Parveen Kr. Chawla)
Court Master

(Indu Satija)
Court Master

[signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.633 OF 2006

Vijender Singh

..Appellant

versus

State of Haryana

..Respondent

WITH
CRIMINAL APPEAL NO.2222 OF 2010
(arising from SLP(Crl.) No.1393/2007)

O R D E R

Leave granted in S.L.P.(Criminal) No.1393 of 2007.

When this matter was called out, none appeared for the respondent-State of Haryana. Counsel for the appellant-accused in Criminal Appeal arising from S.L.P.(Criminal) No. 1393 of 2007 is also not present which has been filed by the co-accused.

These Appeals have been filed by the accused against the judgment and order dated 15th December, 2004 passed by the High Court of Punjab & Haryana at Chandigarh in Criminal Appeal Nos. 504 and 505 of 1997.

The facts have been set out in the impugned common judgment and hence we are not repeating the same here.

The appellants in both the appeals have been convicted by the trial Court under Section 302 read with section 34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for life. Apart from conviction under Section 302, IPC, they were also convicted on other counts. The judgment of the trial Court convicting the accused has been affirmed by the High Court. Hence, these appeals.

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The prosecution case is based upon circumstantial evidence. The prosecution has mainly relied upon the evidence of PW-3 and PW-4. PW3-Sultan Singh is only a chance witness and his story does not appear to be true. Insofar as PW-4, Vijender Singh is concerned, he is the brother of the deceased and his version cannot be believed for the reason that if he had seen his brother leaving with the accused on a motorcycle belonging to the deceased, then he would have immediately informed the police about this fact when he saw the dead body of his brother. Admittedly, there is no information till May 16, 1996 to the police. Hence, his version cannot be believed. Moreover, no body saw the accused committing the murder. Hence, prosecution version is unreliable and, in our opinion, it is not safe

to convict the accused on the basis of the evidence of PW3
and PW4.

Accordingly, these appeals are allowed and the
impugned judgment of the courts below convicting the
accused are set aside. Accused Vijender Singh is on bail.

His bail bonds shall stand discharged. Accused Prashant

Kumar appears to be in the jail. If he is in jail, he

shall be released forthwith, if not required in any other
case.

.....J.
[MARKANDEY KATJU]

NEW DELHI;J.
NOVEMBER 25, 2010 [GYAN SUDHA MISRA]