

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO. (S) 1485 OF 2009

BHAG SINGH & ORS. . . . APPELLANT(S)

VERSUS

STATE OF PUNJAB . . . . RESPONDENT(S)

ORDER

1. Five (05) accused, namely, Jaswinder Singh, Karnail Singh, Bhag Singh, Baj Singh and Bagicha Singh were convicted by the learned trial Court for the offences under Sections 302, 364, 201, 148 read with Section 149 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") and sentenced to undergo imprisonment for life under Section 302/149 IPC; rigorous imprisonment for ten (10) years under Section 364/149 IPC; rigorous imprisonment for three (03) years under Section 201 IPC; rigorous imprisonment for six months under

Section 148/149 IPC. The convictions and sentences have been upheld by the High Court in appeal. Aggrieved this appeal has been lodged by the accused appellants from jail.

2. Two of the accused appellants, namely, Jaswinder Singh and Karnail Singh have withdrawn their appeals leaving the matter to be agitated by the remaining three accused appellants i.e. Bhag Singh, Baj Singh and Bagicha Singh.

3. The accused appellants are unrepresented before this Court. We have heard the learned counsel for the State of Punjab and perused the judgment under challenge and the evidence and materials on record.

4. The conviction of the accused appellants is based entirely on circumstantial evidence. The incriminating circumstances which have been proved by the

prosecution may be conveniently listed below.

(i) The accused persons were last seen with the deceased Dilbag Singh;

(ii) The disclosure statements made by the accused led to the recovery of the dead body; recovery of the weapons; and recovery of the personal belongings i.e. wrist watch and a ring of the deceased;

(iii) Extra-judicial confession made by the five (05) accused persons to Tarlok Singh (P.W.10);

(iv) Motive of the accused which is sought to be proved by the fact that sister of one of the accused persons was in illicit relation with the deceased.

5. The circumstance of last seen together has been sought to be proved by the evidence of Darshan Singh (P.W.9). Darshan Singh (P.W.9), however, mentioned three (03) names in this regard i.e.

Jaswinder Singh, Karnail Singh and Bhag Singh. The first two (02) accused appellants i.e. Jaswinder Singh and Karnail Singh have withdrawn their appeals and even if the evidence of Darshan Singh (P.W.9) is to be taken into account it is clear that the two (02) remaining accused appellants i.e. Baj Singh and Bagicha Singh were not named by Darshan Singh (P.W.9).

6. Insofar as the extra-judicial confession allegedly made by the accused appellants to Tarlok Singh (P.W.10) is concerned we have perused the evidence of Tarlok Singh (P.W.10) from the records in original. The said witness has testified that two days after the incident the accused appellants came to his house and out of them Jaswinder Singh was taken inside whereupon accused Jaswinder Singh reported to Tarlok Singh (P.W.10) that all the five accused had killed the deceased

and thrown his dead body in the water which is called Dhan of the river. Thereafter Tarlok Singh (P.W.10) came out of the house and confronted the other accused persons with the said fact which was accepted and acknowledged by them. The above facts would clearly show that there was no extra judicial confession made by the accused persons to Tarlok Singh (P.W.10).

7. The recovery of the dead body of the deceased at the instance of the accused persons suffers from a serious lacuna/infirmary. We have perused the disclosure statements Exhibit P.26 to P.30 made by the accused persons wherefrom it clearly transpires that the statements recorded are identical in content and expression. The said statements, therefore, would hardly be an accurate recording of what was allegedly stated by the accused persons leading to discovery.

That apart, five accused persons, one after the other, making the same statement before the Police Officer in identical terms does not inspire the confidence of the Court.

8. Insofar as the recovery of weapons is concerned, from the disclosure statements on record it transpires that what was recovered at the instance of the accused Karnail Singh is a knife and at the instance of accused Jaswinder Singh is Karad [Jaswinder Singh and Karnail Singh have withdrawn their appeals before this Court]. Both are sharp weapons. The post-mortem report mentions ten (10) injuries were found on the person of the deceased. All the ten (10) injuries were incised wounds. What was recovered from accused Bhag Singh is a wooden staff. No injury mentioned in the post-mortem report can be ascribed to the said weapon. Insofar as the accused Baj Singh and

Bagicha Singh is concerned, the recovery allegedly made is of the personal belongings i.e. wrist watch and a ring of the deceased respectively. The said belongings have not been identified to be that of the deceased. That apart, recovery of the wrist watch and the ring, incriminating though it may be, cannot, by itself, lead to any adverse conclusion so far as the said accused persons are concerned.

9. Insofar as the motive on the part of the accused appellants is concerned, though the said fact has been very forcefully urged by the learned counsel for the State, we remain unimpressed. Motive is not an essential element to prove a crime. At best, and that too upon exercise of great care and caution, it may be a corroborative piece of evidence. In a case where other evidence is available the Court

will not consider it safe and prudent to place reliance on the evidence on which motive is sought to be established.

10. The end result of the above discussions leads the Court to the conclusion that the prosecution has not succeeded in establishing the guilt of the accused persons beyond reasonable doubt. We, therefore, set aside the conviction and sentence imposed on the remaining three accused appellants i.e. Bhag Singh, Baj Singh and Bagicha Singh and direct that they be set at liberty forthwith.

11. The order of the High Court is set aside to the above extent and the appeal is allowed.

.....,J.  
(RANJAN GOGOI)

.....,J.  
(NAVIN SINHA)

NEW DELHI  
AUGUST 03, 2017

ITEM NO.106

COURT NO.4

SECTION II-B

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

C R I M I N A L A P P E A L N O ( S ) . 1 4 8 5 / 2 0 0 9

BHAG SINGH &amp; ORS.

APPELLANT(S)

VERSUS

STATE OF PUNJAB

RESPONDENT(S)

Date : 03-08-2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI  
HON'BLE MR. JUSTICE NAVIN SINHA

For Appellant(s)

Ms. Abha R. Sharma, AOR [N/P]

For Respondent(s)

Ms. Mandakani Singh, Adv.  
Mrs. Jaspreet Gogia, Adv.  
Mr. Kuldip Singh, AOR  
Mr. Raj Kamal, Adv.  
Mr./Ms. Gursimran Dhillon, Adv.

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

We set aside the conviction and sentence imposed on the remaining three accused appellants i.e. Bhag Singh, Baj Singh and Bagicha Singh and direct that they be set at liberty forthwith.

The order of the High Court is set aside and the appeal is allowed in terms of the signed order.

[VINOD LAKHINA]

AR-cum-PS

[ASHA SONI]

BRANCH OFFICER

[SIGNED ORDER IS PLACED ON THE FILE]