

ITEM NO.105

COURT NO.10

SECTION IIB

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

Criminal Appeal No(s). 982/2010

HARVINDER SINGH

Appellant(s)

VERSUS

STATE OF PUNJAB
(With application for bail and office report)

Respondent(s)

Date : 10/07/2014 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Appellant(s)

Mr. Subhro Sanyal ,Adv.

For Respondent(s)

Mr. V. Madhukar, AAG.
Ms. Anvita Cowshish, Adv.
Mr. Kuldip Singh, Adv.

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

Heard Mr. Subhro Sanyal appearing for the
appellant and learned Additional Advocate General
for the State of Punjab.

The appeal is dismissed in terms of the signed
order.

[KALYANI GUPTA]
COURT MASTER

[SHARDA KAPOOR]
COURT MASTER

Signature Not Verified

Digitally signed by
Kalyani Gupta

[SIGNED ORDER IS PLACED ON THE FILE.]

Date: 2014.07.19

16:31:38 IST

Reason:

CRL.A. NO. 982 OF 2010

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 982 OF 2010

HARVINDER SINGH

.....

APPELLANT

VERSUS

STATE OF PUNJAB

.....

RESPONDENT

O R D E R

Heard Mr. Subhro Sanyal appearing for the appellant and learned Additional Advocate General for the State of Punjab.

2. The appellant has preferred this appeal against his conviction under Sections 302 and 201 of the Indian Penal Code by which he has been sentenced to life imprisonment and two years rigorous imprisonment and a fine of Rs. 1,000/- in default he has to undergo further rigorous imprisonment for a period of six months by the trial court

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and the High Court in appeal has confirmed the conviction and sentence.

3. Before coming to the details of the prosecution case, it is worth noticing that the deceased in this case, Rahul, is the son of the complainant, Om Preeti, P.W.7. The appellant is the step father of the deceased whom Om Preeti married after the death of her first husband, Dharam Pal, who was an employee with the Municipal Corporation and died on 27th June, 2000. The case against

the appellant is based upon circumstantial evidence as well as upon extra-judicial confession before P.W. Nos.4

and 6. There is also a disclosure statement before the Police which led to the recovery of the tiff

in box

belonging to the deceased on which his name was engraved
in Punjabi. The recovery was made from bush where the
tiffin box was kept concealed.

on 14th
made a
4. In brief, the prosecution case is that
September, 2002, Om Preeti, the complainant
statement Exhibit-PH in Police Station Kharar giving the
details of her earlier marriage and subsequent marriage
with the appellant and that her son Rahul from her earlier
husband was got admitted in Dashmesh Public School, Modi

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Kharar. She has stated that she used to drop Rahul and
pick him up from the school but on the fateful day i.e.,
29th August, 2002, the appellant went to drop Rahul in the
school at about 8:00a.m. The boy was in school uniform
along with school bag and tiffin box on which his name was
inscribed in Punjabi. The appellant had informed
the complainant that after dropping Rahul in the scho
ol he would go to Ropar to get registration number o
f the scooter. When the complainant went to the school
at about 4:00p.m. to pick up her son, she did not find him
there and was informed by the Principal of the School that
Rahul had not reached the school. When the appellant came
back from Ropar both of them made efforts to search Rahul
but invain and a missing report was lodged wit
h the Police.

agjit 5. On 14th September, 2002 by about 4:00p.m. J

Singh, P.W. 8 met her at bus stand Kharar and from him she learnt that on 29th August, 2002 at about 9:00a.m. that while he was going to his village from Chamkaur Sahib and when he reached near the bridge of Bhakra Canal near Village Ramgarh he saw Harvinder singh, the appellant on the scooter without number going towards the side of the

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bank of the canal with Rahul on the scooter in school uniform. Jagjit further revealed that on the same day at about 10:00a.m. when he was standing at Morinda Kainor Chowk near lights then he saw only the appellant Harvinder Singh coming and on enquiry by Jagjit Singh, the appellant told him that he had left Rahul at his house in village Oind. The complainant on knowing these facts accosted the appellant in her house and the appellant started weeping and confessed that Rahul was thrown by him in Bhakra Canal in order to get the amount of insurance from the Municipal Committee.

6. The complainant alleged, on the basis of the aforesaid facts, that the appellant had killed her son for greed of money. On the basis of such statement made on 14th September, 2002, formal First Information Report was recorded by the Assistant Sub Inspector. The Police personnel then accompanied the complainant to her house and recorded the statement of important witnesses - Gurdev Singh, P.W. 2, Jagjit Singh, P.W. 8 and others.

7. Police searched for the dead body without any success. On 17th September, 2002, P.W. 4 - Prem Singh and

P.W. 6 - Nanak Singh, ex-Sarpanch produced the appellant before the Police at the Police Station where he was formally put under arrest. In course of interrogation by the Police he made a disclosure statement that on 29 th August, 2002, he had thrown Rahul in Bhakra Canal near bridge of Ramgarh along with school bag.

8. He further disclosed that he had concealed the tiffin box of Rahul near the cremation ground under the shrubs from where it could be recovered. The disclosure statement Exhibit PC was deduced into writing on which the appellant signed and the same was got attested by other witnesses. Acting on the disclosure statement, the tiffin box, Exhibit E1 was recovered by Recovery Memo, Exhibit PD. The rough site plan of the place of recovery was prepared and the property was deposited in the Malkhana. After completing the investigation, Police submitted charge sheet.

9. The conviction of the appellant as noted above was based mainly upon circumstances proved by the prosecution witnesses as well as extra-judicial confession not only before the complainant but also before P.W. Nos. 4 and 6.

The appellant did not offer any explanation as to how he came to know where the tiffin box of the deceased was kept when clearly the same was recovered pursuant to his disclosure statement made to the Police. Both the courts

below have taken full note of all the evidence on record including the statement of the appellant made under Section 313 of the Code of Criminal Procedure.

The appellant did not raise any defence except that he had been falsely implicated. Considering the circumstantial evidence and other materials, the trial court convicted him and the High Court upheld his conviction both under Sections 302 as well as 201 of the Indian Penal Code.

10. Learned counsel for the appellant has relied upon the arguments made on behalf of the appellant before the High Court that there are several contradictions and discrepancies in the statements of witnesses. This point

has been sought to be buttressed by pointing to certain contradictions in the timings given by some witnesses as to when Rahul was taken to his school by the appellant and when the appellant came back to his home. The courts have rightly not given much importance to the aforesaid submission because the first version of the complainant

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which led to formal F.I.R. is quite clear that it was the appellant who took the boy to his school and he came back only in the evening because he had already given a plea that he was to go to Ropar to obtain registration number of the scooter.

11. The other submission on behalf of the appellant is that recovery of tiffin box of the deceased is not an incriminating material like recovery of weapon of assault

and no adverse inference should have been drawn on that basis. We do not agree with the aforesaid submission. The deceased had left for his school along with his tiffin box. The recovery of the tiffin box at the instance of the appellant shows that he had special knowledge as to where the tiffin box was kept. This should have been disclosed by him at the earliest along with the explanation as to how he acquired this knowledge. No such explanation was given by the appellant either in course of investigation or during the course of trial. Hence the factum of recovery of the tiffin box is indeed an incriminating circumstance against the appellant and has been rightly treated as such by the courts below.

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12. The criticism made by learned counsel for the appellant that there is a delay of 17 days in lodging of the formal F.I.R. is also of no help to the defence because of peculiar facts and circumstances of the case. The appellant was a part of the family of the deceased and it was not known to the complainant that he had committed such an offence. After lodging the missing report without any delay, the complainant continued her search for her son with the help of the appellant who was naturally not interested in the unearthing of the true facts. Only when she met Jagjit Singh, P.W. 8, she had reasons to believe that the appellant had killed her son and thereafter she gave her statement Exhibit PH on the same day without any delay. Hence prosecution case cannot be doubted on account of any delay in lodging of formal F.I.R.

13. Learned counsel for the appellant has criticized the prosecution case also on the ground that more than one

motive has been disclosed in course of trial. In the very first statement leading to F.I.R., the complainant alleged that according to confession made by the appellant he had killed the boy on account of greed for money and subsequently she appears to have added to a possible

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motive alleging that the appellant also wanted to have his own child. We find that additional motive cannot give any advantage to the appellant. The exact reason why such a heinous crime was committed cannot be deciphered easily as it remains buried in the mind of the appellant. But he was unable to show that any of the alleged motives are false, absurd or improbable.

14. In the facts of the case, we do not find any merit in this appeal which is, accordingly, dismissed.

.....J
[FAKKIR MOHAMED IBRAHIM KALIFULLA]

.....J
[SHIVA KIRTI SINGH]

NEW DELHI
JULY 10, 2014.

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