

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.852/2010

BARAM SINGH

Appellant(s)

VERSUS

STATE OF UTTAR PRADESH

Respondent(s)

WITH

CrI.A. No. 1763/2010 (II)

O R D E R

The appeals arise out of the final impugned order dated 7.11.2009 passed by the High Court of Judicature at Allahabad in Criminal Appeal No.7237/2008 and in Reference No.15/2008 by which the appellant-Baram Singh's sentence was modified from death sentence to imprisonment for life under Section 302/34 IPC and the order of sentence of rigorous imprisonment to 7 years under Section 211 IPC was confirmed.

The fact of the case are that Kirat Pal, son of Malkhan Singh village Banat, District Muaffar Nagar filed an FIR dated 10.09.1998 at Police Station Nahtore, District Bijnore to the effect that he married his daughter with Constable Baram Singh alias Brahm Singh son of Har Pal Singh on 09.12.1997. After the marriage, he came to know that the first wife of Baram Singh had filed a case of maintenance in the Court and divorce case was also pending. Baram Singh used to come to Pairavi of the case at Bijnore. On 20.08.98, Baram Singh brought Mamta from his house to his elder daughter Sumitra's house at Bijnore. On

22.08.98, he left Mamta at Bijnore. On 24.08.98, Baram Singh again went to Bijnore and on 25.08.98 after attending the date of hearing in the court, he went to Mamta's sister's house and said that he had lost the case and was going back to his house. Sumitra, sister of Mamta refrained him stating not to travel as it was 7 p.m. and Mamta was pregnant. But Baram Singh did not agree and took Mamta with him on motorcycle. On 26.08.98 information was received that Mamta had been murdered. When Kirat Pal reached Bijnore, Baram Singh told him that when he was going to his house from Bijnore, his first wife Reena Chaudhary and her Family members murdered Mamta. At this, Kirat Pal felt something wrong and when he made enquiry, he came to know that Baram Singh and his elder brother Mahendra Singh had killed Mamta. Braj Bir Singh and Mahendra Singh resident of village Nangal Jat, Police Station Haldaur, district Bijnore had seen the accused Baram Singh and his brother Mahendra Singh committing murder of Mamta. They murdered her to implicate his first wife Reena Chaudhary and her family members due to losing the case.

In connection with the incident, Baram Singh, son of Harpal Singh resident of Village Padli Mandu, Police Station Kotwali Dhampur, District Bijnore also filed an FIR on 25.08.1998 and stated that he got married to Reena Chaudhary, daughter of Mahendra Singh resident of Shahpur, Ratan Kiratpur in 1993. But in 1994 due to strained mutual

relations they got divorced. After the divorce, his second marriage was performed with Mamta, daughter of Kirat Pal Singh resident of Village Banat, Police Station Shamli, District Muzaffarnagar. After divorce, Reena Chaudhary got a criminal case registered under Section 498A, IPC which was closed by Police Station Dhampur. In the meantime, Reena Chaudhary filed restoration application for restitution of conjugal rights in the case of divorce. The date of hearing was fixed on that day. Around 5 p.m., he went to the house of his brother-in-law Jagvir Singh where Mamta was staying. After staying there for sometime, he took his wife with him on the motor cycle and set forth along with other motor cycle on which his brother Mahendra Singh was mounted along with Nagendra Singh and they were also coming behind him. He further stated that when he reached near the cane field at about 8 p.m. when they reached Narainpur on Bijnore-Jhaloo-Nahtore road, a black Maruti Car overtook him and stopped there. In this car Reena Chaudhary, her father Mahender Singh and her grand father Lallu Singh and one more person were sitting. Reena Chaudhary started abusing him and said that it was right time to kill him. At this all of them ran towards him. He further stated that in order to save themselves they took *kacha rasta* but could not run due to bad road. So they left the motorcycle and hid themselves in sugar cane field, but they caught hold of his wife and killed her by cutting her neck. When he came out of cane field he found that she

was dead. Then he reached the police station hiding through jungle passage to lodge the report.

On the basis of aforesaid written complaint dated 25.08.98 criminal case Crime No.329/98 was registered under Section 302, IPC at police station Nahtore. In the same case, the mother and father of the deceased filed additional report on 10.08.98. After investigation of case Crime No.329/98 under Sections 302/34, 182,211 IPC charge sheet was filed against Baram Singh and Mahendra Singh, sons of Harpal Singh.

Police started investigation in both the FIRs and found that report lodged on 25.08.1998 by Baram Singh was false. Hence the case was closed against Reena Chaudhary, Mahendra Singh (her father) and Lalu Singh.

After that police started investigation in FIR lodged by Kirat Pal against accused Baram Singh and Mahender Singh. Both surrendered before the court and were sent to jail. The police also made recovery of knife.

The Sessions Judge vide judgment and order dated 16.10.2008 in ST No.96 of 1999 came to the conclusion that the prosecution proved its case beyond reasonable doubt against both the accused under Sections 302/34 IPC as well as Section 211 IPC and awarded them death sentence.

Aggrieved by the said judgment and order, both the accused preferred Criminal appeal No.7237/2009 and Reference No.15 of 2008 before the High Court.

The High Court dismissed the appeal of the appellant-

Baram Singh but on the point of sentence, it was partly admitted that the order of death sentence was modified with sentence of life imprisonment under Section 302/34, IPC and he was further sentenced to undergo rigorous imprisonment for seven years under Section 211, IPC. The appeal of Mahender Singh was allowed and the order of sentence was set aside. Hence the appeal.

In the facts and circumstances of the case, the version of the accused was rightly discarded by the trial Court as well as the High Court. The entire conduct of the accused, absence of any injury, and not offering himself for medical examination to substantiate his case is found to be suspicious. His version that his motor cycle skidded off cannot be relied upon, as he would have also sustained injuries. It is proved that murder was committed by the accused with the assistance of his brother. The knife by which murder was committed was recovered at the instance of Baram Singh. The version that the father-in-law and grand father-in-law of his earlier wife had had committed murder of the deceased seems improbable. Thus in our view, the conviction has been rightly recorded and no case for interference is made out.

The appeal is dismissed.

Cr1.A. No. 1763/2010

The appeal has been filed by the State against the judgment and order of the High Court whereby the accused Baram Singh's appeal was partly allowed and the death

penalty was converted into life imprisonment. Accused Mahendra Singh's appeal was allowed and the order of sentence passed by the Additional Sessions Judge, Bijnore was set aside.

With regard to modification of sentence, it has been rightly converted into life imprisonment instead of death sentence. In our considered opinion, it is appropriate not to impose death sentence on the accused, as it could not be said to be '*a rarest of rare case*'. With regard to the appeal against Mahendra Singh, in our considered opinion, no ground is made out to interference in the impugned judgment and order.

There is no force in the appeal filed by the State and the same is dismissed.

..... J.  
[ARUN MISHRA]

..... J.  
[NAVIN SINHA]

NEW DELHI;  
MARCH 14, 2019.

ITEM NO.105

COURT NO.4

SECTION II

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). 852/2010

BARAM SINGH

Appellant(s)

VERSUS

STATE OF UTTAR PRADESH

Respondent(s)

WITH

Cr1.A. No. 1763/2010 (II)

(READY )

Date : 14-03-2019 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE NAVIN SINHA

Counsel for the parties:-

Mr. Ratnakar Das, Sr. Adv.

Mr. Kamlesh Kumar Maurya, Adv.

Mr. Ajay Vikram Singh, AOR

Ms. Priyanka Singh, Adv.

Mr. Ansar Ahmad Chaudhary, AOR [appearance not given]

Mr. Prashant Chaudhary, AOR

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

The appeals are dismissed in terms of the signed order.

Pending application, if any, stands disposed of.

(ASHA SUNDRIYAL)  
COURT MASTER(JAGDISH CHANDER)  
BRANCH OFFICER

[signed order is placed on the file]