

CASE NO.:
Appeal (crl.) 658 of 1998

PETITIONER:
KULDEEP SINGH & ORS.

Vs.

RESPONDENT:
STATE OF RAJASTHAN

DATE OF JUDGMENT: 25/04/2000

BENCH:
K.T. Thomas, Doraiswamy Raju & S.N. Variava.

JUDGMENT:

S. N. VARIAVA, J.
L...I...T.....T.....T.....T.....T.....T.....T..J

This Appeal is against the Judgment dated 10th March, 1997. By the judgment the Appeal of the Appellants against their convictions by the Additional Sessions Judge has been confirmed. Appellants 1 and 2 had been convicted under Sections 302 and 120B I.P.C. Appellants 3 and 4 have been convicted under Section 120B read with Section 302 I.P.C. All of them are sentenced to undergo imprisonment for life.

Briefly stated the facts are as follows:

One Sohan Singh and his brother Mohan Singh were staying in different portion of house at Ward No. 35, Old Abadi, Ganganagar. Both of them had practiced as Vaid and were running a medical shop. Sohan Singh was married to one Karnal Kaur. He has two daughters and one son. Mohan Singh was married to Surjeet Kaur i.e. Appellant No. 4. They have three daughters. Mohan Singh expired sometime in 1974. Thereafter, Sohan Singh and his family and Appellant No. 4 and her children continued to stay in the portions of the same house occupied by them earlier. Sohan Singh was found murdered in his own house, in the night intervening 15th and 16th of October 1977.

It is the case of the prosecution that Appellant No. 1, Kuldeep Singh was earlier a tenant of Mohan Singh. Appellant No. 2, Mahindra Singh is a maternal uncle of Appellant No. 1. Appellant No. 3, Uttam Chand is a friend of Appellant No. 1. It is the case of the prosecution that Appellant No. 1 developed illicit relationship with Appellant No. 4. It is the case of the prosecution that Appellant Nos. 2 and 3 used to visit the house of Appellant No. 4 when Appellant No. 1 was a tenant there. It is the case of the prosecution that Sohan Singh was objecting to the illicit relationship between Appellant No. 1 and Appellant No. 4. It is the case of the prosecution that Sohan Singh was also objecting to Appellant No. 4 wanting to sell off her portion of the house. It was the case of the prosecution that all the four Appellants conspired to

cause the death of Sohan Singh and in pursuance of the said conspiracy Appellants 1 and 2 murdered Sohan Singh. It is this case of the prosecution that in pursuance of the said conspiracy Appellant No. 4 got all the family members, including the wife of Sohan Singh, to attend Ramleela which was being played in the village. It is the case of the prosecution that Appellant No. 4 tried to persuade the son of Sohan Singh also to stay back at home but could not succeed in doing so as the son insisted on attending the Ramleela programme. It is the case of the prosecution that Appellant No. 4 accompanied the other family members to the Ramleela festival, but thereafter went away from the Ramleela grounds for some time. It is the case of the prosecution that when Karnail Kaur and other family members asked Appellant No. 4 where she had gone, she stated that as she was not feeling well so she had sat in the open away from the crowd.

Karnail Kaur and other family members came home at about 1 A.M. On coming home they found that Sohan Singh was lying in pool of blood. It is the case of the prosecution that on coming home Appellant No. 4 immediately went to her room and bolted the outside door, which allowed entry to her room from outside. It is the case of the prosecution that thereafter Appellant No. 4 called Jaswinder Kaur and Dalbir Kaur, the daughters of Sohan Singh to her room and told them not to say that they had any enemy or to name any person as otherwise there would be trouble.

It is the case of the prosecution that on seeing Sohan Singh there was a outcry by the family members which attracted the neighbours including one Harnek Singh, Advocate. The said Harnek Singh, then called the police. The police reached the house of Sohan Singh and recorded the statement of Jaswinder Kaur, the daughter of the deceased. They then inspected the site, held an inquest, interrogated the witnesses and arrested the accused.

Charges under Sections 120B and 302 I.P.C. were framed against all the four accused, who pleaded not guilty. The prosecution examined 15 witnesses. Appellants led no evidence. All the Appellants in their statements under Section 313 Cr.P.C. denied the accusations. Appellant Surjeet Kaur stated, in her statement under Section 313 Cr.P.C., that she had been roped in the case in order to deprive her of her share in the property. She denied that she had left the Ramleela ground for some time.

The learned Sessions Judge held, on the evidence, that Sohan Singh had met homicidal death. He further held that all the four Appellants had entered into a criminal conspiracy to murder Sohan Singh and that Appellants 1 and 2 had committed his murder. He, therefore, convicted Appellants 1 & 2 under Sections 302 and 120-B I.P.C. and convicted Appellants 3 & 4 under Section 120B read with Section 302 I.P.C. All the accused were sentenced to life imprisonment. Criminal Appeal No. 247 of 1978 was dismissed by the impugned Judgment dated 10th March, 1997.

Both the Courts below have considered the evidence in detail.

Both Courts have held that the circumstantial evidence was sufficient to establish the guilt of all the Appellants beyond a reasonable doubt. We have perused the judgment of

the Courts below. We have read the evidence. We do not find any infirmity or fallacy in appreciation of the evidence or the marshalling of the facts and circumstances which unerringly lead to a conclusion of guilt beyond a reasonable doubt so far as Appellants 1, 2 and 4 are concerned.

The evidence of PW4 Dr. Rajender kumar Gupta who performed the autopsy shows that Sohan Singh had following injuries:

"1. Bruise with abrasion 1/1"x1" anterior surface of right knee joint.

2. Bruise with abrasion 1"x1/2" on the anterior surface of the left knee joint.

3. Incised wound (oblique) 3/4"x1/4"xbone deep on the terminal phalynx of the left index finger on the dorsal aspect.

4. Incised wound (oblique) 1"x1/4" x bone deep on the terminal phalynx of the middle finger on the dorsal aspect.

5. Incised wound (oblique) 1-1/4"x1/8" bone deep on the dorsal aspect of the first and second phalynx of the middle finger of the left side.

6. Multiple incised wound (oblique) in the area of 3-1/2"x1/2"xbone deep on the dorsal aspect of the left hand extending from second metacarpal bone to sixth metacarpal bone.

7. Multiple incised wound in the area of 2"x1" x bone deep on the medial side of the left wrist joint cutting lower end of ulna.

8. Multiple incised wound (oblique) in the area of 3"x1" x muscle deep on the posterior aspect of left fore arm on the lower half tailing of towards medial side.

9. Incised wound (oblique) 1"x1/2" on the upper half of the fore arm on the dorsal surface tailing towards medial side.

10. Incised wound (oblique) 1-1/4"x1/2" on the posterior aspect of the fore arm on the upper tailing of towards medial side.

11. Incised wound (oblique) 1/2"x1/4"xmuscle deep on the latero posterior aspect of the left arm on the deltoid region tailing of anteriorly.

12. Incised wound (oblique) 1/2"x1/4" muscle deep above the injury No. 11.

13. Incised wound (oblique) 1/2"x1/2" x muscle deep above the injury no. 12.

14. Incised wound in the area of (oblique) 3-1/2"x2-1/2" x muscle deep on the superior surface of the left shoulder joint tailing of towards lateral surface of the upper arm.

15. Incised wound (oblique) 2" x 3/4" x bone deep on

the left scapular region tailing of towards the dorsal spine.

16. Incised wound (oblique) in the area of 3"x1/2"xmuscle deep on the infraclavicular region of the left side tailing towards medial side.

17. Incised wound (oblique) in the area of 2"x1/4"x muscle deep above injury No. 16.

18. Incised wound oblique a multiple in the area of 3"x2"x deep to trachea cutting thyroid and cricoid cartilage, trachea and larynx extending from below the right angle of mandible left supra clavicular region.

19. Multiple incised wound on the dorsal aspect of the right hand cutting through and through and separating thumb index finger middle finger and half of the ring finger from the little and half right hand finger.

20. Multiple incised wound on the left side of the side of the neck deep to cervical vertebrae cutting all the muscle vessels and all the nerves of the left side of the neck and posterior side also. This wound extended upto right ear. Wound was in the area of 11"x5" maximum breadth of on the left side below left angle of the mandible.

21. Incised wound (oblique) 1-1/2"x1/2" x bone deep on the left maxillary area tailing of towards the nose.

22. Incised wound (oblique) 1-1/2" x 1/2" x bone deep on the occipital region.

PW4 further says that on opening the body, he found that the trachea was cut and there were fractures of the following bones:-

- "1. Terminal phalanx of the left index finger.
2. Second to fifth metacarpal bone of the left side.
- 3 . Lower end of the ulna of the left side.
4. Spine of the scapula of the left side.
5. Thyroid and cricoid.
6. Third and fourth metacarpal bone of the right hand.
7. Proximal phalanx of right ring finger.
8. Terminal phalanx of the right little finger.

PW4 also says that all the injuries, found on the person of Sohan Singh, were ante-mortem in nature and they were collectively and cumulatively sufficient in the ordinary course of nature to cause death. According to him, injuries nos. 18 & 20 even individually were sufficient to cause his death. There is nothing in the cross examination of the medical officer to doubt his expert opinion. By his evidence, it is amply proved that Sohan Singh had suffered number of incised wounds on the various parts of his body, and that he had died of the injuries suffered by him.

In our view it is sufficient, to mention the

Appellant Nos. 1 and 2 why the blood stained Darats were so hidden by them or how they could help discover the same. All these circumstances put together unerringly lead to the conclusion that Appellants 1, 2 & 4 had conspired to murder and murdered Sohan Singh between the night of 15th and 16th October, 1977.

It is not possible to accept the submission that the evidence of the witnesses could not be believed. Both the Courts below have set out detailed reasons why the evidence was trustworthy and believable. We fully endorse those findings.

It must also be noted that in her statement under Section 313 Cr.P.C. Appellant No. 4 denies that she had left the Ramleela function. The evidence of witnesses clearly establishes that she had left the Ramleela programme.

In the case of Swapna Patra v. State of West Bengal [(1999) 9 SCC 242], it has been held that it is a well settled principle that in a case of circumstantial evidence when the accused offers an explanation and that explanation is found to be untrue then the same offers an additional link in the chain of circumstances to complete the chain. The same principle is reiterated in the case of State of Maharashtra v. Suresh [(2000) 1 SCC 471]. In this case it has been held that a false answer offered by the accused when his attention was drawn to a circumstance renders that circumstance capable of inculcating him. It is held that in such a situation like this a false answer can also be counted as providing "a missing link" for completing the chain.

The false answer given by Appellant No. 4 denying that she had left the Ramleela programme provides the additional link or a missing link in completing the chain of circumstances.

In our view it is established beyond a reasonable doubt that Accused nos. 1, 2 and 4 had entered into a conspiracy and had murdered Sohan Singh.

However, so far as Appellant No. 3, Uttam Chand is concerned, the only evidence against him is the evidence of P.W.9. PW 9 has deposed that he had seen him going, along with Appellant Nos. 1 and 2, towards the house of the deceased. In our view, this by itself is not sufficient to establish the guilt. The only other evidence against Appellant No. 3 is the evidence of P.W.5 (Darshan Singh). Both the Courts below have accepted the evidence of P.W.5. We have read the evidence of P.W.5. We have also seen the contradictory statement which he had made in his statement to the police. In our view, the contradictions are substantial. They lead to the conclusion that the evidence of P.W.5 cannot be relied upon. In the absence of this evidence there is no circumstance or proof which links Appellant No. 3 to the conspiracy or the murder. We, therefore, set aside the conviction of Appellant No. 3 Uttam Chand under Section 120-B read with Section 302 I.P.C.. He is acquitted of all the charges. He shall be forthwith set at liberty, unless required in some other case.

The Appeal against the conviction of Appellant No. 1 -

Kuldeep Singh, Appellant no. 2 - Mahendra Singh and Appellant No. 4 - Surjeet Kaur stands dismissed. They are sentenced to undergo imprisonment of life. The bail bonds shall stand cancelled. We direct Appellants 1, 2 and 4 to surrender. On their failure to do so we direct the Sessions Judge, Sri Ganganagar to take immediate and necessary steps to put the Accused in jail for undergoing the sentences imposed on them.

JUDIS