

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NOS. 42-43 of 2007

TERSEM SINGH

..... APPELLANT

VERSUS

STATE OF PUNJAB

..... RESPONDENT

O R D E R

1. These appeals by way of special leave are directed against the concurrent findings of the Sessions Judge Jalandhar and of the High Court of Punjab and Haryana whereby the appellant has been convicted and sentenced to death for having murdered his wife and two minor children on the 21st of September, 2007.

2. As per the prosecution story given by Piare Lal PW his daughter Rajwinder Kaur had been married to Tarsem Singh appellant about twelve years earlier. He was present in his house in village Pandori, Masharkti (District Jalandhar) when he received a message at about 11:00p.m. on the 21st September, 2007 from village Khambra that a gas cylinder had burst in his daughter's house and that his son-in-law Tarsem Singh had

sustained injuries and his daughter Rajwinder Kaur and his grand sons Harwinder Singh aged 8 years and Gurvinder Singh aged 10 years, had been killed. Piare Lal along with his wife and nephew Makhan Singh rushed to village Khambra and on examining the site he suspected that the appellant had killed his wife and children by inflicting injuries on them and then setting them on fire post murder. An FIR was, accordingly, lodged at the Police Station on the 22nd September, 2007 in which he further stated that the appellant had threatened a few days earlier that he would kill everyone in his family.

3. The prosecution placed reliance on several witnesses including PW-4 Hardev Singh to whom the appellant had made an extra judicial confession, PW 5 Balbir Singh who had seen him coming out of the house with a ghotna(pestle) and the evidence of Dr. Aman Sood PW-9 who had carried the post mortem examinations on the dead bodies and opined that the injuries on the head had been caused by ghotna and that the bodies had been burnt after death. Relying on these pieces of evidence the trial court and the High Court convicted the appellant and awarded him a death sentence.

4. When these matters came up for hearing on the 24th July, 2009 notice had been issued confined to the question of sentence only and we have heard Mr. Dushyant

Parashar and Mr. Anil Grover, learned counsel for the appellant and the learned Additional Advocate General for the State of Punjab respectively on this question today.

5. We find that the evidence against the appellant is basically that of extra judicial confession and last seen as supported by the medical evidence. We also see that there is rule or law that a death sentence cannot be awarded in a case based on circumstantial evidence, but as a matter of prudence the courts are chary in awarding a death sentence in such cases. We are, therefore, of the opinion that the award of the death sentence in the circumstances of the case was not justified.

6. As the notice was a limited one we direct that the sentence on the appellant be commuted from death to life. With this modification in the sentence, the appeals are dismissed.

.....J
[HARJIT SINGH BEDI]

.....J
[CHANDRAMAULI KR. PRASAD]

NEW DELHI

APRIL 05, 2011.

