

CASE NO.:
Appeal (crl.) 1364-66 of 2004

PETITIONER:
Mayakaur Baldevsingh Sardar & Anr

RESPONDENT:
The State of Maharashtra

DATE OF JUDGMENT: 08/10/2007

BENCH:
S.B.SINHA & HARJIT SINGH BEDI

JUDGMENT:
J U D G M E N T
WITH CRL.A.Nso.1378-1380/2004
and 1419-1421/2004

HARJIT SINGH BEDI, J.

1. These appeals by special leave arise out of the following facts.

2. Rajvinder Kaur (PW1) was the youngest daughter of Maya Kaur and Baldev Singh Sardar. In addition to Rajvinder Kaur the couple had another daughter Sulakshana, and two sons Ranprit Singh and Amrit Singh and the entire family was residing in a small township near Panvel City on the outskirts of Mumbai. While studying in school Rajvinder Kaur fell in love with Ravinder Singh and the relationship culminated in a secret marriage between the two, as Rajvinder's family did not approve of the relationship on the premise that Ravinder Singh belonged to an inferior caste and was also financially weak. It appears that after Sulakshana's marriage, Baldev Singh and Maya Kaur decided that it was appropriate that Rajvinder Kaur too should be married off. A suitable boy was accordingly selected by them for her but before a final decision could be taken Rajvinder Kaur told the proposed bridegroom of her love affair with Ravinder Singh. He nevertheless still agreed to the marriage. Faced with this difficult situation, Rajvinder Kaur informed her parents that she was already married with Ravinder Singh. This information caused consternation in her family and faced with hostility she left home and shifted in with her husband and his family. She was, however, repeatedly threatened by her relatives including her parents that she would have to suffer the consequences of her misconduct. Maya Kaur and Nirmal Kaur, Rajvinder's maternal aunt, also demanded the return of the ornaments that she had been wearing when she had left her parents home, but she told them that they could collect these articles from the police station (in the presence of the police) as she had already lodged a complaint. On 30th May 1999 at about 8.30 p.m. Rajvinder Kaur was informed that her mother and maternal aunt had come to visit her. She accordingly invited them upstairs to the first floor and on their demand handed over the ornaments to her mother. Maya Kaur and Nirmal Kaur also told Rajvinder Kaur that her maternal uncle (Mama) Bhagwan Singh (accused No.3) had also come to visit her and was waiting downstairs. Lakhminder Kaur, Rajvinder's mother-in-law told Maya Kaur to call her brother upstairs. In the meantime, it appears Ravinder Singh went out on to the balcony to get his shirt and saw some persons armed with weapons in their hands hanging around suspiciously and apprehending mischief, he asked his brother Harvinder Singh to immediately call some of his

friends. Harvinder Singh rushed downstairs in an attempt to do so but soon returned with a patch of blood on his shirt on the abdomen and fell in the prayer room. Rajvinder Kaur then saw accused No.4 Jagpal Singh, husband of Nirmal Kaur, accused No.5 Kawaljit Singh, cousin of Maya Kaur and Nirmal Kaur accused No.6 Bakhtavar Singh, maternal uncle of Maya Kaur, accused No.7 Kuldeep Singh, a close relative of Maya Kaur, Baldev Singh and Bhagwan Singh climbing the stair case with weapons in their hands. Maya Kaur and Nirmal Kaur however left the place and went out of the gate. Rajvinder, sensing danger shouted for help but somebody entered the balcony and pushed her therefrom and she fell on the ground floor sustaining severe injuries. She also heard some voices speaking in Punjabi suggesting that she be killed and somebody replying that she was already dead. Rajvinder Kaur, grievously hurt, went crawling to the house of one Narula, a neighbour, and informed him of the assault on her family on which he called the police. The Police reached the site after a short time and found that Ravinder Singh, husband of Rajvinder Kaur, her brother-in-law Harvinder Singh, and her-in-laws Dilip Singh and Lakhwinder Kaur had all been killed. A formal FIR was thereupon registered at about 3.30 a.m. on 1st June 1999 at the Police Station, five kilometers distant, at the instance of PW7 Sub-Inspector Vikram Bhimrao Patil. On the completion of the investigation, the accused were charged as under:-

S.No.	Accused Name	Charged Under Act & Clause
1.	Mayakaur Sardar	I.P.C Sections 302, 307, 120(B), 34; Arms Act- Sections 25(1)&(3), 27(3)
2.	Nirmalkaur Sardar	- DO -
3.	Bhagwansingh Randhava	- DO -
4.	Jagpalsingh Toor	- DO -
5.	Kunwarjitsingh Pullar @ Rana Randhava	- DO -
6.	Bakhtawarsingh Randhava	- DO -
7.	Kuldeepsingh Randhava	I.P.C Sections 302, 307, 120(B), 34
8.	Baldevsingh Sardar	I.P.C Sections 302, 307, 120(B), 34; Arms Act- Sections 25(1)&(3), 27(3)

3. After an elaborate discussion the trial court sentenced Bhagwan Singh, Jagpal Singh, Kanwarjit Singh, Bakhtawar Singh, Maya Kaur and Nirmal Kaur guilty for the offences under Sections 302, 307 read with Section 120 B of the IPC and sentenced the first four to death and the other two to life imprisonment under Sections 302/120B and to lesser term of imprisonment for the other offences. Kuldip Singh and Baldev Singh were however acquitted.

4. As four of the accused had been awarded the death penalty, the trial Judge made a reference to the High Court under Section 366 of the Cr.P.C. The accused also filed appeals challenging their convictions and the matters were heard by a Division Bench of S.S. Parkar and J.N. Patil, JJ. Parkar, J. was of the opinion that a death sentence in the circumstances was not justified and that the involvement of Kawaljit Singh too had not been proved. He accordingly opined that the death sentence should not be confirmed and that Kawaljit Singh was liable to an acquittal. Patil, J. was, however, of the opinion that the death sentence imposed by the trial court and the conviction of Kawaljit Singh were justified on the facts and the evidence. On account of a difference of opinion on these matters amongst two Hon'ble Judges, the matter was referred to a third Judge Palshikar, J. under Section 392 of the Cr.P.C. On a re-appreciation of the evidence Palshikar, J. ordered the acquittal of the accused under Sections 302/120B and 307/120B and 307/34 of the IPC and directed that Mayakaur Sardar, Nirmal Kaur Sardar, Bhagwan Singh Randhava, Jagpal Singh Toor, Kanwarjit Singh Pullar @ Rana Randhava and Bakhtawar Singh Randhava undergo imprisonment for life under Section 302/34 of the IPC. The murder reference was accordingly declined.

5. The matter was thereafter placed before the Division Bench of Parkar and Patil, JJ. and appropriate orders were passed. It is in these circumstances that two sets of appeals have been filed before us, one by the accused appellants challenging their conviction and sentence and the other by the State of Maharashtra praying for the award of the death sentence to the accused.

6. Mr. Vijay Kotwal, the learned senior counsel for the accused-appellants has first and foremost argued that the incident had happened in the evening of 30th May 1999 but Rajvinder Kaur (PW1), the solitary eye witness, had not disclosed the names of the accused to the police till the 8th of June 1999 which clearly revealed that she had not seen the incident and that she had been forced to become an eye witness to the murders. It has also been pleaded that in the case of a single witness it was essential that the testimony should be without blemish and as she had made significant improvements and changes in her statements from those made to the police from time to time, no reliance could be placed on her testimony and as such could not by itself form the basis of a conviction. It has been emphasized that there was no evidence to show as to the reasons that had prompted the police to arrest the accused well before 8th of June, 1999 in the absence of any evidence against them. It has also been pleaded that the recovery of the identity card of accused No.3 (Bhagwan Singh) from near the dead body and the recovery of the various articles at the instance of the accused on their statements under Section 27 of the Evidence Act clearly revealed that the investigation made by the police was an unfair and biased one and finally that there was no evidence as to the involvement of Kawaljit Singh. The Government Advocate has however pointed out that the two ladies Maya Kaur and Nirmal Kaur had admitted their presence at the place of incident and PW4 Yogeshkrishan Lohar who was a neighbour of the deceased

family too had deposed that on the night of the incident he had heard the sound of an auto rickshaw and on looking out had seen two women and two or three Sardars getting down therefrom which clearly showed that all the accused had come together. It has also been highlighted that Rajvinder Kaur had been completely traumatized by the incident, the assailants being her parents family and the victims being her in-laws, her husband and brother-in-law and in this view of the matter, it was not surprising that she had not been able to give out the names of the accused till the 8th of June 1999, and that in this situation some discrepancies in her depositions were to be expected. It has been submitted that there was no inflexible rule of law that the non-disclosure of the names of the accused at the very initial stage must a fortiori result in an acquittal of the accused. It has also been argued that the recovery of the various articles clearly incriminated the accused-appellants and no interference was called for on findings of fact arrived at by two courts. It has finally been pleaded that the death penalty ought to be re-imposed on the four accused as per the judgment of the Sessions Judge.

7. We have heard the learned counsel for the parties and have gone through the record very carefully. Several facts are admitted by both sides. The relationship inter-se the parties stands admitted. It is also in evidence that Rajvinder Kaur had secretly married Ravinder Singh and it was only when an attempt had been made to marry her off to some other person that she had been forced to reveal her marriage and that this information had caused great alarm in her family and invited their wrath and that several threats had also been held out to her prior to the murders following which she had made a complaint to the police. It has also come in Rajvinder's deposition that she had initially been hesitant to disclose the names of the assailants as she was mortally scared by what had happened to her husband's family and an attempt made on her life as well. It is in this background that her statement needs to be evaluated. The evidence of Dr. Alexander Martin Alphonse (PW13), a Psychiatrist attached to the MGM Hospital, Bombay also shows that Rajvinder had been examined by Doctor Yamini at about 1.00 a.m. on 31st May 1999 and that he had examined her after she had been referred to him by the Orthopaedic Surgeon Dr. Rajesh Kakvani and that she was in a state of tremendous shock and out of a normal state of mind, sad and tearful and uncommunicative and that she had refused to take any food and complained of lack of sleep on account of immense grief and suffering as a result of traumatic stress disorder. He further deposed that she had been in that condition for four or five days and had finally been discharged from hospital on the 29th June 1999. It is in these circumstances that the Sessions Judge as also the High Court have categorically found that she was both unwilling and unable to give her statement and it was only after she had recovered from her trauma and had also been provided with security by the police, that she had finally mustered courage and then spoken out. It is also evident from the record that Maya Kaur and Nirmal Kaur had made repeated efforts to get back the ornaments that Rajvinder Kaur had taken with her after she had shifted in with her husband and that she had, without hesitation, handed over the ornaments to them. It has also come in her statement that some efforts had been made (though with extreme reluctance on the part of her parents family) to normalize the relationship by having another marriage between her and Ravinder Singh in a Gurudwara but it appears that her parents, particularly her father, remained unrelenting with what they believed to be a marriage with a person who was financially weak and belonged to an inferior caste. Rajvinder thus held no rancour or ill-will against her family and the manner in which murders had been

engineered must have come as the rudest of shocks to her.

8. A serious argument has been raised as to the events which had led to the arrest of the accused long before the 8th of June 1999 and on the basis on which the arrests had been made. We find no suspicious circumstance in the arrests for the reason that Maya Kaur and Nirmal Kaur who have admitted their presence and had also been seen by several witnesses, had been arrested on 31st of May 1999 itself and it was possibly on their interrogation that the other accused had been arrested subsequently. We also find from the record that no question had been put to the Investigating Officer in this regard, as it is possible that if he had been questioned, he would have given a cogent explanation.

9. The learned counsel for the appellants has, however, relied on the judgment of this Court in Jagir Singh vs. The State (Delhi) (1975) 3 SCC 562 and Alil Mollah & Anr. Vs. State of W.B. (1996) 5 SCC 369 to contend that if the names of the assailants were not revealed by a witness to the police at the earliest in point of time amounted to unnatural conduct and no credence could be attached to the testimony of such a witness. We have perused the cited judgments and find their facts to be distinct and not applicable to the present case. In Jagir Singh's case (supra) the Court found that the eye witnesses had not been able to give any explanation for the injuries that had been found on the body of the deceased, which precluded their presence. Likewise in Alil Mollah's case (supra) the Court observed that the conduct of the solitary eye witness was so unnatural that it did not inspire any confidence. In the case before us, we find that Rajvinder Kaur is a stamped witness with grievous injuries caused in the same incident and as the assailants were her parental family and the victims, her husband, in laws and brother-in-law, her reluctance and inability to immediately come forth and to give a statement implicating them is not surprising. We also observe that her mental condition at that time was truly disturbed as made out from the evidence of Dr. Alexander that she had been completely unstable for a period of 5 or 6 days after the incident. The fact that she had named the accused for the first time on the 8th of June therefore does not surprise us and is, on the contrary, in line with the prosecution story.

10. It has then been argued by Mr. Kotwal that the common intention on the part of the accused did not exist in the facts of the case as it was possible that Maya Kaur and Nirmal Kaur had come to Rajvinder Kaur's home merely to persuade her to return the jewellery that she had taken with her and that they, having left the place prior to the actual attack, was a pointer in that direction. We find absolutely no merit in this argument. It has been admitted by both Maya Kaur and Nirmal Kaur in their statements under section 313 of the Cr.P.C. that they had been present in the house for the purpose of recovering the ornaments and clothes from Rajvinder but they had left soon after having received them. It has however come in the evidence of PW4 Yogesh Krishan Lohar, a neighbour, that just before the incident he had looked out from the window on hearing the sound of an Auto Rickshaw and had seen two women and two or three Sardars alighting therefrom. It has also come in Rajvinder's statement that when her mother and aunt had arrived at her in-laws place and walked upstairs they had refused to take even the glass of water which had been offered to them and that Nirmal Kaur had told her that her (Nirmal Kaur's) brother had come with her and wanted to meet Rajvinder and on which Maya Kaur had gone down to call him upstairs. It is also in evidence that when Ravinder Singh had gone out on to the balcony to put on a shirt he had rushed back in alarm saying that many persons had come with weapons and had accordingly told his brother Harvinder to

call his friends. It appears that when Harvinder had gone downstairs he had been caused a grievous injury by the accused which had prompted him to return upstairs bleeding profusely where he had fallen down. It is thus apparent that the attack on the family had been pre-planned and duly executed with the clear common intention of all the accused to set things right in their perverted way of thinking, but only after the jewellery had been recovered. It is also clear that a murderous attack had been made on Rajvinder Kaur as well which was a culmination of the entire process of threat and intimidation that she had suffered at the hands of her family. We are therefore of the opinion that there are no extenuating circumstances in favour of Maya Kaur and Nirmal Kaur.

11. It has been pleaded by Mr. Kotwal that accused No.5 Kawaljit Singh was apparently not a member of the Rajvinder Kaur's parental family as he was a servant employed in Nasik in the Dhaba of accused Bakhtawar Singh and that as Rajvinder Kaur's statement with regard to his identity and presence was also ambivalent his involvement was in doubt. It has also been argued that the identification parade with respect to Kawaljit Singh had been held after his photograph has been shown to Rajvinder Kaur. It has however been pointed out by the learned State counsel that the Rajvinder Kaur had admitted that she had not known Kawaljit Singh's actual name and that he was known to her as Rana but she was categorical in that he had been one of the assailants and that she had identified him on two occasions in the police station some time after the incident.

12. We have considered this argument as well. We find some doubt as to Kawaljit Singh's participation. Rajvinder Kaur's evidence with regard to his relationship with her family appears to be somewhat uncertain. She also admitted that his photograph had been shown to her on the 29th June 1999 and that she had been called to identify him in the parade thereafter though she had not known his name at that point of time. Our opinion is further fortified by the fact that even the Panchnama with respect to the proceedings of the identification parade is not on record and the Executive Magistrate who conducted the parade has not been produced as a witness.

13. It has also been argued by the learned counsel that the involvement of Bhagwan Singh was also suspect as his identity card which was said to be a corroborative circumstance had apparently been planted by the investigators. We find no basis for this assertion. In his statement under Section 313 of the Cr.P.C. Bhagwan Singh had asserted that the identity card in question was an old one and that a new card had been subsequently issued to him. We find that the courts below have rightly held that his case that the old identity card had been surrendered at the time when the new one had been issued was not acceptable as the defence witnesses had nowhere stated that the old card had been taken back on the issuance of a new one although, the normal custom in the office was that this exercise had been carried out. The courts have thus observed that there was no conclusive evidence placed by the defence that the old card had indeed been returned to the employers. Moreover, in the light of the statement of Rajvinder Kaur, Bhagwan Singh's participation is also established beyond doubt.

14. We now come to the State appeal seeking a sentence of death for four of the assailants.

15. The learned Government counsel has argued that the present case fell within the category of rarest of rare cases *Bachan Singh v. State of Punjab* (1980) 2 SCC 684 and as such the trial court was fully justified in having recorded a death sentence with respect to four of the accused. It has also been pointed out that the proceedings for confirmation of the death sentence before the High Court, had led to a difference between

the two Judges, with one for confirmation and the other for the imposition of a life sentence and it was in this circumstance that the matter had been referred to a third Hon\022ble Judge who too hinted that the death sentence was not called for as it would not serve society at large as the murders had been committed on account of social pressures and in vindication of the family honour, though the family honour could not be said to be a justification for the murders.

16. We have something to say on this aspect. The efficacy or otherwise of the death penalty is a matter of much debate in legal circles \026 with two diametrically opposite views on the subject. However, as the penal code visualizes the imposition of this penalty, the circumstances under which it should be imposed are also a matter of discussion, the broad principle being its award in the rarest of rare cases. Undoubtedly also while categorizing a case the facts would predominate but the predilection of a Judge, is a human factor (and a factor whose importance cannot be minimized) but as Judges applying the law we must also be alive to the needs of society and the damage which can result if a ghastly crime is not dealt with in an effective and proper manner. We also notice that while Judges tend to be extremely harsh in dealing with murders committed on account of religious factors they tend to become more conservative and almost apologetic in the case of murders arising out of caste on the premise (as in this very case) that society should be given time so that the necessary change comes about in the normal course. Has this hands off approach led to the creation of the casteless utopia or even a perceptible movement in that direction? The answer is an emphatic no as would be clear from mushrooming caste based organizations controlled and manipulated by self appointed Commissars who have arrogated to themselves the right to be the sole arbiters and defenders of their castes with the license to kill and maim to enforce their diktats and bring in line those who dare to deviate. Resultantly the idyllic situation that we perceive is as distant as ever. In this background is it appropriate that we throw up our hands in despair waiting ad infinitum or optimistically a millennium or two for the day when good sense would prevail by a normal evolutionary process or is it our duty to help out by a push and a prod through the criminal justice system? We feel that there can be only one answer to this question.

17. The present case is a classic example of what we mean. Both parties are Sikhs, a religion which had its genesis in a revolt against casteism with the belief that there was only one caste \026 humanity \026 imbued with one spirit, humanism and thus promoted the brotherhood of men with the ethos that no one was good or bad as all had emanated from the same \023Noor\024 (light). And the ironic realism; the accused are Jat Sikhs \026a proud and aggressive community which has produced some of India\022s most valorous soldiers and helped fill India\022s granaries - unwilling to accept the victims as equals - they being Matharu Ramgariah Sikhs, artisans by profession - and in their garbled perception inferior in every way and unsuitable for their daughter. It has come in Rajvinder\022s statement that she had been the favourite child of her parents but the events show that notwithstanding this deep filial attachment they were of the opinion that she was better dead than alive.

18. The two cases which have really crystallized the situation in which the death penalty ought to be awarded are Bachan Singh (supra) and Machhi Singh v. State of Punjab (1983) 3 SCC 470. In Bachan Singh\022s case the Court observed that the extreme penalty could be inflicted only in cases of gravest and extreme culpability. The Court also held that the mitigating circumstances in favour of a criminal so as to avoid death

penalty had also to be taken into account and the balance-sheet of the aggravating and mitigating circumstances was to be prepared as a prelude to the award of the sentence. The broad principles laid down in Bachan Singh's case were adopted in Machhi Singh's case with the following prefatory observations:

The reasons why the community

as a whole does not endorse the humanistic approach reflected in death sentence-in-no-case

doctrine are not far to seek. In

the first place, the very humanistic edifice is constructed on the foundation of reverence for life principle. When a

member of the community violates

this very principle by killing

another member, the society may

not feel itself bound by the

shackles of this doctrine.

Secondly, it has to be realized

that every member of the

community is able to live with

safety without his or her own

life being endangered because of

the protective arm of the

community and on account of the

rule of law enforced by it. The

very existence of the rule of law

and the fear of being brought to

book operates as a deterrent of

those who have no scruples in

killing others if it suits their

ends. Every member of the

community owes a debt to the

community for this protection.

When ingratitude is shown instead

of gratitude by killing a

member of the community which

protects the murderer himself

from being killed, or when the

community feels that for the sake

of self-preservation the killer

has to be killed, the community

may well withdraw the protection

by sanctioning the death penalty.

But the community will not do so

in every case. It may do so in

rarest of rare cases when its

collective conscience is so

shocked that it will expect the

holders of the judicial power

centre to inflict death penalty

irrespective of their personal

opinion as regards desirability

or otherwise of retaining death

penalty. The community may

entertain such a sentiment when

the crime is viewed from the

platform of the motive for, or

the manner of commission of the

crime, or the anti-social or

abhorrent nature of the crime.

19. The Court further observed that if a murder was committed in circumstances which aroused societal wrath or when the crime was enormous in proportion such as in a case of multiple murders of all or almost all the members of a family or a large number of persons of a particular caste, community or locality or pre-meditated, pre-planned and diabolically executed and the helpless state of the victims were aggravating circumstances. The horrendous manner of the execution of the murders is best expressed in the words of PW- 14 Dr. Dhananjay Bapurao Shinde:

\023I was attached to Medical Municipal Dispensary, at Panvel, as Medical Officer since 16th January 1999. On 31.5.1999 four dead bodies were brought to my dispensary, they were referred to me by City Panvel Police Station. I have examined the dead bodies.

2. On examination of dead body of Dilip Singh I found eleven injuries on his person. They were incised injuries. They are mentioned by me in the column No.17 of the P.M. Notes. The internal injuries found by me are mentioned in column Nos.19 and 20 in P.M. Notes. I have mentioned in column No.23 the injuries which were sufficient in the ordinary nature of course of cause of death. Even taking into consideration the single injury also. Each injury by itself mentioned in column No.23 by itself was sufficient in the ordinary nature of course of cause the death. The injuries were ante-mortem. In my opinion the cause of death was cardio respiratory failure due to hemorrhagic(sic) shock because of multiple injuries over the body. The P.M. are written and signed by me and its contents are true and correct, it is at exhibit 111.

3. On the same day I examined the dead body of Lakhavindar Kaur and found that she had sustained four incised injuries, which are mentioned by me in column No.17 of the P.M. Notes. Her neck was found completely out(sic). Only some muscle were found attached to the skull. I have mentioned the internal injuries in column Nos.19 and 20 of the notes. In my opinion the cause of death was due to

incised wound which has practically out of her neck completely. The injuries were ante-mortem and could have been caused by the sharp edged

instrument the cause of death was cardio respiratory failure due to hemorrhagic(sic) shock, due to multiple. The P.M. Notes are in my handwriting, it is signed by me and its contents are true and correct, exhibit 112.

4. On the same day I have also examined the dead body of Ravindra Singh. There were 10 minutes (sic)(Incised) found on his body. Besides two were abrasions. Mainly these injuries were on the body. I have mentioned these injuries in column No.17. The internal injuries mentioned by me in column Nos.19 and 20. I found on the backside that 5th,6th and 7th ribs fractured on the backside. I also found an incised wound on his neck and his larynx out(sic). The injuries were ante mortem and could have been caused by sharp edged instrument and also by blunt instrument. The cause of death was due to cardio respiratory failure, due to hemorrhagic(sic) shock due to multiple injuries accused. The P.M. Notes are in my handwriting and its contents are true and correct. It is exhibit 113.

5. I have also examined the dead body of Harvindar Singh and found nine incised wound on his body, which I have mentioned in the column No.17 in the P.M.Notes. I found occipital, parietal and frontal bones of the skull fractured and the brain matter had come out. I have also found fracture of 6th and 7th ribs of right side. The injuries could have been caused by sharp edged heavy weapons such as sword (sic) etc. The cause of death was due to cardio respiratory failure, due to multiple injuries caused on the body. The P.M. Notes are in my hand-writing and it (sic) were signed by me and its contents are true and correct. It is at Exhibit 114. The injuries were anti-mortem (sic). Both the hands were found completely cut off from the shoulders. The injuries were sufficient in ordinary course of nature to cause the death. Both the hands were separated from the body.\024

N.B. The above statement has been reproduced verbatim.

20. We are of the opinion that strictly speaking the present case would fall within the parameters visualized in Bachan Singh and Machhi Singh cases. The diabolical nature of the crime and the murder of helpless individuals committed with traditional weapons with extreme cruelty and pre-meditation is exacerbated by the fact that Maya Kaur and Nirmal Kaur had come upstairs and recovered the jewellery and clothes from Rajvinder Kaur just before the actual murders.

21. Having said all this, we are of the opinion that in the peculiar circumstances that we now face we are not inclined to reverse the life sentences awarded by the High Court and to re-impose the death penalty on the accused. We note that the Additional Sessions Judge had rendered his judgment on 21st December 2001 awarding the death sentence to four of the accused. The Division Bench of Parkar and Patil, JJ. gave its divergent judgments on February 26, 2003. The third Hon'ble Judge Palshikar, J. delivered his judgment on April 25, 2003 and the matter has been taken up by us four years thereafter. It has also come on record that the accused have served more than 8 years of their sentences as of now. We accordingly allow Criminal Appeal Nos. 1378-1380/2004 in so far as they relate to Kawaljit Singh alias Rana Darshan Singh Puller and order his acquittal. All other appeals are however dismissed.