

PETITIONER:
STATE OF PUNAJAB

Vs.

RESPONDENT:
SARUP SINGH

DATE OF JUDGMENT: 27/11/1997

BENCH:
G.T. NANAVATI, V.N. KHARE

ACT:

HEADNOTE:

JUDGMENT:

THE 27TH DAY OF NOVEMBER, 1997

Present:

Hon'ble Mr. Justice G.T. Nanavati

Hon'bel Mr. Justice V.N. Khare

R.S. Sodhi, Kuldip Singh, Advys. for the appellatant
Sudhir Walia, Adv. for Prem Malhotra, Adv. for the
Respondent

J U D G M E N T

The following Judgment of the Court was delivered:

Nanvati, J.

The State is challenging acquittal of the respondent in this appeal.

The respondent was tried for the murder of Kulwinder Singh and the trial court relying upon the evidence of Kulwinder Kaur- PW 5 and Gian Singh - PW 4 which proved that the accused and the deceased were last seen together and the evidence of recovery of currency notes and wrist watch of the deceased, on the basis of a declaration made by the accused, held him guilty. The appellatant was convicted for the offence punishable under Section 302 IPC.

The High Court held that Gian Singh was chance witness and therefore it was risky to rely upon his evidence without any corroboration. The High Court also held that identity of currency notes and the wrist watch was not established by the prosecution beyond doubt and therefore it was not possible to say that they belonged to the deceased. The High Court, therefore, acquitted the respondent.

After going through the evidence what we find is that the recovery of money and the wrist watch stated to be of the deceased were recovered by the Investigating officer in presence of Amar Singh - PW 10 - Maternal grandfather of the deceased. Thus, the recovery was not in presence of any independent person. It was for this reason that the High Court did not think it safe to place any reliance on the recovery evidence. The evidence of PW 5 - Kulwinder Kaur even if believed only establishes that the accused and the deceased left together at 5.00 p.m. on 18.2.85. From that circumstance alone no inference can be drawn that the respondent had committed the murder of Kulwinder Singh.

We therefore see no good reason to interfere with the

acquittal order passed by the High Court. The appeal is, therefore, dismissed.

JUDIS