

Surendra Koli vs State Of U.P. Ors on 15 February, 2011

Equivalent citations: AIR 2011 SUPREME COURT 970, 2011 (4) SCC 80, 2011 AIR SCW 3628, AIR 2011 SC (CRIMINAL) 608, 2011 (3) ALL LJ 203, 2011 (4) AIR JHAR R 606, 2011 (4) AIR KANT HCR 32, 2011 (2) CALCRILR 314, 2011 (2) SCC(CRI) 92, 2011 (2) SCALE 490, (2011) 100 ALLINDCAS 132 (SC), 2011 CALCRILR 2 314, (2011) 1 CHANDCRIC 508, (2011) 1 ORISSA LR 917, (2011) 1 DLT(CRL) 607, (2011) 2 CRIMES 56, 2011 CRILR(SC MAH GUJ) 253, (2011) 1 CRILR(RAJ) 253, 2011 CRILR(SC&MP) 253, (2011) 3 MAD LJ(CRI) 606, (2011) 2 RECCRIR 1, (2011) 1 CURCRIR 450, (2011) 2 SCALE 490, (2011) 73 ALLCRIC 446

Bench: Gyan Sudha Misra, Markandey Katju

ITEM NO.101

COURT NO.6

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CRIMINAL APPEAL NO(s). 2227 OF 2010

SURENDRA KOLI

Appellant (s)

VERSUS

STATE OF U.P. ORS.

Respondent(s)

WITH SLP(CrI) NO. 608 of 2010
(With office report)

Date: 15/02/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s)

Dr. Sushil Balwada, Adv. AC

Mr. Vivek K. Tankha (A.S.G.)
Mr. T. A. Khan, Adv.
Mr. Pratul Shandilya, Adv.
Mr. Sumeer Sodhi, Adv.
Mr. Vaibhav Srivastava, Adv.
Mr. Kumnanan D., Adv.
Mr. Arvind Kumar Sharma, Adv.
Mr. Harsh, Adv.

For the appellant
In SLP (crl)
608 of 2010

Mr. B. P. Singh Dhakray, Adv.
Mr. Shakti Singh Dhakray, Adv.
Mr. D. B. Vohra, Adv.

For Respondent(s)

Mr. Ratnakar Dash, Sr. Adv.
Mr. Shail Kumar Dwivedi, AAG
Mr. Rajeev K. Dubey, Adv.
Mr. Kamendra Mishra ,Adv

For Resp No. 1
In SLP (Crl)
608 of 2010

Mr. R. S. Sodhi, Sr. Adv.
Ms. Manisha Bhandari, Adv
Mr. Omkar Shrivastava, Adv. For

Ms. Madhu Moolchandani

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

The appeal is dismissed in terms of the signed order.

SLP(Crl) NO. 608 of 2010 Leave granted.

(Deepak Joshi)
Sr. P.A.

(Indu Satija)
Court Master

(Signed reportable order is placed on the file) Reportable IN THE SUPREME COURT OF INDIA CRIMINAL APPELLATE JURISDICTION CRIMINAL APPEAL NO 2227 OF 2010 SURENDRA KOLIAppellant (s) Versus STATE OF U.P. AND ORS.Respondent (s) WITH SPECIAL LEAVE PETITION (CRL.) 608 of 2010 O R D E R Heard Dr. Sushil Balwada, learned counsel, who has appeared for the appellant Surendra Koli in Criminal Appeal No. 2227 of 2010.

The appellant Surendra Koli, accused no. 2 and Maninder Singh Pandher accused no. 1 were convicted under Section 302/364/376 IPC by the Special Sessions trial no. 611 of 2007 decided on 13.02.2009 by Additional Sessions Judge, Ghaziabad, U.P. By that judgment death sentence was imposed on both these accused.

In Appeal/Reference to the High Court accused Surendra Koli's death sentence was affirmed while the accused Maninder Singh Pandher was acquitted. Hence, Surendra Koli has filed this Appeal before us.

The facts of this case are gruesome and horrifying. It seems that several children had gone missing over 2 years from Sector 31, Nithari Village, Gautam Budh Nagar, Noida from 2005 onwards. Several of such children were alleged to have been killed by the appellant who is also alleged to have chopped and eaten the body parts after cooking them. Appellant Surendra Koli was the servant of accused no. 1 Moninder Singh, and they lived together at D-5, Sector 31, Noida.

The High Court in the impugned judgment dated 11.09.2009 has discussed the evidence in great detail and we have carefully perused the same. It is not necessary therefore to again repeat all the facts which have been set out in the judgment of the High Court except where necessary. We entirely agree with the findings, conclusion and sentence of the High Court so far as accused Surendra Koli is concerned.

Admittedly, there was a confession made by Surendra Koli before the Magistrate under Section 164 Cr.PC on 01.03.2007 and we are satisfied that it was a voluntary confession. The Magistrate repeatedly told the accused Surendra Koli that he was not bound to make the statement and it can be read against him. In our opinion the provisions of Section 164 CrPC have been fully complied with while recording the said statement.

In the aforesaid statement before the Magistrate appellant Surendra Koli has admitted in great detail how he used to kill the girls after luring them inside the House no. D-5, Sector 31, Noida by strangulating them, and he would then chop up and eat up their body parts after cooking them. Some body parts, clothes and slippers were thrown in the enclosed gallery behind the house at D-5, Sector 31, Noida. He volunteered to lead the police team to the specific spot where he had kept the articles/body parts hidden. The police party reached that spot along with the appellant. On his pointing out, 15 skulls and bones were recovered, and also a knife was recovered from a water tank of a bath room in D-5, Sector 31. On 31.12.2006 during the scooping of the drain in front of D-5, bones and chappals were recovered.

He has given graphic description about the several murders he has committed. Surendra Koli was the servant of co-accused Maninder Singh Pandher as has been admitted by him. The confession under Section 164 has been corroborated in material particulars. The body parts of the killed girls have been found in the gallery behind the house and in the Nala beside the house.

Weapons like knife have also been recovered. The girls clothes have also been identified.

Two girls PW-27 namely Pratibha and PW-28 namely Purnima have stated before the trial Court that they were also attempted to be lured inside the House D-5 by Surendra Koli but they refused to enter the house. This was their sheer good luck, for if they would have entered the house then they might have met the same fate. Their evidence indicates the modus operandi of the appellant.

The parents of one Rimpa Haldar had filed a missing report at the police station on 20.07.2005 stating that their daughter Rimpa aged about 15 years had gone to do menial work in Sector 20 on 08.02.2005 but had not returned. Smt Doli Haldar came to know that in D-5, Sector 31 human skeleton and clothes had been found. Hence she went there and identified the chunni and bra of her daughter.

The appellant was charged for the murder of Rimpa (amongst others), and was found guilty by both the trial Court and High Court. Although it is a case of circumstantial evidence we are of the opinion that the entire chain of circumstances connecting the accused Surendra Koli with the crime has been established by the prosecution beyond reasonable doubt.

The DNA test of Rimpa by CDFD, a pioneer institute in Hyderabad matched with that of blood of her parents and brother. The Doctors at AIIMS have put the parts of the deceased girls which have been recovered by the Doctors of AIIMS together. These bodies have been recovered in the presence of the Doctors of AIIMS at the pointing out by the accused Surendra Koli. Thus, recovery is admissible under Section 27 of the Evidence Act.

On the facts of the case we see no reason to interfere with the findings of the trial court and the High Court that the appellant Surendra Koli is guilty of murdering Rimpa Haldar. Both Courts have gone into the evidence in great detail and we have perused the same. The appellant appears to be a serial killer, and these cases in our opinion fall within the category of rarest of the rare cases as laid down in Bachan singh Vs State of Punjab, 1982 SCC 689 which has been subsequently followed in Atbir Vs Government of NCT of Delhi, 2010 SCC (9) 1.

The killings by the appellant Surendra Koli are horrifying and barbaric. He used a definite methodology in committing these murders. He would see small girls passing by the house, and taking advantage of their weakness lure them inside the house no. D-5, Sector 31, Nithari Village, Noida and there he would strangulate them and after killing them he tried to have sex with the body and would then cut off their body parts and eat them. Some parts of the body were disposed off by throwing them in the passage gallery and drain (nala) beside the house. House no. D-5, Sector 31 had become a virtual slaughter house, where innocent children were regularly butchered.

In our opinion, this case clearly falls within the category of rarest of rare case and no mercy can be shown to the appellant Surendra Koli.

The appeal is, therefore, dismissed. SPECIAL LEAVE PETITION (CRL.) 608 of 2010 Leave granted.

.....J. [MARKANDEY KATJU]J. [GYAN SUDHA MISRA] NEW DELHI;

FEBRUARY 15, 2011