

Manmohan Singh vs State Of Punjab on 31 January, 1997

Equivalent citations: AIR1997SC1773, 1997(1)ALD(CRI)523, 1997CRILJ1632, 1997(1)CRIMES114(SC), JT1997(2)SC72, 1997(1)SCALE538, AIR 1997 SUPREME COURT 1773, 1997 AIR SCW 1003, 1997 CRILR(SC&MP) 175, (1997) 2 JT 72 (SC), 1997 (1) SCALE 538, 1997 SCC(CRI) 917, 1997 (2) JT 72, (1997) 2 RECCRIR 604, (1997) 2 RECCRIR 90, (1997) 1 SCJ 379, (1997) 1 SUPREME 671, (1997) 2 ALLCRILR 13, (1997) 4 CURCRIR 135, (1997) 34 ALLCRIC 472, (1997) 1 CRIMES 114, (1997) 1 EASTCRIC 620, (1997) 1 SCALE 538, 1997 CRILR(SC MAH GUJ) 175, (1997) SC CR R 786

Bench: G.N. Ray, S.Saghir Ahmad

ORDER

1. These appeals are directed against judgment dated 17.4.1994 passed by the Division Bench of Punjab and Haryana High Court in Criminal Appeal No. 247 DB of 1993 arising out of judgment dated 15.6.1993 passed by the learned Sessions Judge, Amritsar in Sessions Case No. 80 of 1989 renumbered as 354 of 1992 and in Criminal Appeal No. 277 88 of 1993 directed against the judgment dated 15.6.1993 passed by the Designated Court convicting the appellant under Section 25 of the Arms Act.

2. In connection with the murder of Ratan Kaur in her house on 22.4.1989 at Batala Road in Amritsar, accused No. 1 Manmohan Singh the appellant herein and accused No. 2 Paranjit Singh were tried before the learned Sessions Judge Amritsar in the said Sessions Case under Section 302/34 IPC 454/120B IPC, 120B and 360 IPC. The accused No. 1 Manmohan Singh was also tried before the designated court for offence under Section 5 of TADA Act and under Section 25 Arms Act. The prosecution case in short is that the deceased Ratan Kaur used to reside in her house at Batala Road, Amritsar with her husband Dewan Singh (PW 4) and son Amarjit Singh (PW 2). On 22.4.1989 Dewan Singh had gone to village Ghanaake for cultivating wheat crop and Amarjit and Ratan Kaur were in their house. At about 10.00 A.M. the accused Manmohan Singh came to the flour mill which was being run by Paranjit Singh in the ground floor of their house at Amritsar and requested Paranjit to accompany the accused No. 1 to the shop of a gas agency near Bus Stand in order to help him in getting gas connection. Paramjit being busy with his works in flour mill, could not then accompany him. Accused No. 1 again came at 1 P.M. but Paramjit could not go even then. Accused No. 1 again came at about 3 P.M. for the said purpose and Paranjit told accused No. 1 that he would go to gas agency directly after finishing his work and the accused No. 1 Manmohan Singh was directed to go there and wait for him. After some time, Amarjit after closing his flour mill had gone to the said gas agency but he did not see accused No. 1 there. After waiting for about an hour at the shop of gas agency, Amarjit returned to his home and found Manmohan Singh coming down by the stairs from the residential portion of their house. The said accused No. 1 appeared to be nervous on seeing Amarjit and on enquiry made by Amarjit as to why he had not gone to the gas agent,

Manmohan Singh told him that he got busy with his friends, and started eating and drinking with them. Amarjit noticed that Manmohan was then carrying a bundle wrapped in white sheet in his right hand. Amarjit also noticed some blood stains on the said sheet. Manmohan immediately left the place. Amarjit went to stairs and found all articles in their home scattered on the floor. He found his mother Ratan Kaur lying dead on the mattress. A dupatta was found tied around the neck of Ratan Kaur with a knot. Fresh blood was coming out of the injury on the head of Ratan Kaur. A blood stained lock which was put on an iron box was lying near the dead body. Amarjit immediately checked the house hold articles and found that a revolver of 32 bore bearing No. A61515 with 16 live cartridges of the same bore were missing. He also found that a sum of Rs. 7,000/-, two gold sets weighing about 9 tobas were missing from the house. Amarjit then came down the stairs by raising alarm that Manmohan had killed his mother and committed theft in their house. Harbhajan Singh was attracted by such shout of Amarjit. Harbhajan Singh was asked by Amarjit to guard his mother's dead body and Amarjit wanted to lodge FIR. On way he met SI Onkar Nath and made the statement which was rendered in writing and Amarjit Singh signed such statement forming FIR (Ext. PF) by acknowledging the correctness of the statement.

3. The police thereafter visited the spot and prepared inquest report (Ex. PB) and the dead body was sent for post mortem examination. Dewan Singh reached home and his son Amarjit apprised him of the said incident of murder and theft. Thereafter, Dewan Singh checked up the articles in the house and found that two bangles of gold, two gold tobas, two pairs of ear rings, kodak camera, one Rolex wrist watch and his burse containing Rs. 1600/- were also missing from the house. On 23.4.1989, post mortem examination was held by Dr. Sonal (PW 1) and in his report, he indicated that Ratan Kaur had died due to asphyxia on account of strangulation and she also suffered head injury. When the S.I. Onkar Nath and other police officials were proceeding to Verka bypass from Majitha Chowk for investigation of the case and reached Sun Nallah in village Mustafabad, the accused Manmohan Singh was found coming down the bank of Nallah. Although Manmohan, after seeing the police party, tried to slip away but he was apprehended by the police and on search of his person 32 bore revolver bearing No. A 61515 along with two live cartridges (Ext. P-15. 16 and 16), one camera (Ex. P-20), one wrist watch (Ext. P-21) and one purse containing Rs. 1600/- (Ext. P-22), currency notes (Ext. P-24/116) and small diary (Ext. P-23) on which the name of Dewan Singh was written, were found. Such articles were seized vide recovery memo (Ext. PR). Surender Singh the Naib Tahsildar held identification of the said seized articles and Dewan Singh identified the said articles. The Naib Tahsildar submitted his report (Ext. PJ).

4. On 1.5.1989 the accused No. 2 Paranjit Singh went to the house of Narinder Singh (PW 3) and told him that 20/25 days ago he had conspired with Manmohan Singh that they would extort money and other articles provided they could get a revolver. Manmohan Singh then told Paranjit that his uncle Dewan Singh was in possession of a revolver and he would be able to get the said revolver along with some cash and gold ornaments. Amarjit also told Paranjit that on finding proper opportunity, he would get revolver, ornaments and cash by sending Dewan and Amarjit away from their house and by killing Ratan Kaur if necessary. Paranjit also informed Narinder (PW 3) that on 22.1.1989, when Dewan Singh was away and Amarjit had gone to the shop of a gas agent as requested by Manmohan, Manmohan went to the house of Dewan Singh and looted revolver, cash and other articles after killing Ratan Kaur. Thereafter, Narinder had taken Paranjit to A.S.I. Gian

Singh (PW 15). On 1.5.89 Paranjit was interrogated by Gian Singh and Paranjit Singh made a disclosure statement to the effect that he had concealed gold ornaments wrapped in a white chabra in his house. Such disclosure statement was reduced in writing (Ext. PGC) and Paranjit signed the same. At the instance of Paranjit, two gold bangles (Ext. P-11 and P-12, gold necklace (Ext. P-7), two ear rings (Ext. P-7 and P-8), pair of tobas (Ext. P-9 and P-10) were recovered and seized vide memo (Ext. P-H). During investigation, the police also recorded the statement of Mohinder Singh Viridi who had repaired camera Ext. P-20) given to him for repairing by Dewan Singh and had also paid Rs. 115/- as repairing charges against receipt (Ext. PM). Ratan Singh (PW 12) who had repaired Rolex watch of Dewan Singh and charged Rs. 65/- for such repair against receipt (Ext. PC) was also examined by the police, Kulwinder Singh goldsmith (PW 13) was also examined by the police. Kulwinder polished gold ornaments (Ext. P-6 to P-14) against payment of Rs. 90/- vide receipt (Ext. PX).

5. The prosecution examined a number of witnesses including Dr. Sonal (PW 1). Amarjit (PW 2). Narinder Singh (PW 3). Dewan Singh (PW 4). Mohinder Singh Viridi (PW 8). ASI Parshotam Lal (PW 14). Rattan Singh (PW 12). Kulwinder Singh (PW 13), Gian Singh (PW 15) and S.I. Onkar Singh (PW 16). Both the accused denied the correctness of the evidence adduced against them in their statements under Section 313 of the CrPC and asserted that they were innocent but falsely implicated. On behalf of the accused Chanchal Manohar Singh, Senior Correspondent Indian Express Chandigarh (DW 1) was examined to prove a news item that a middle aged women Ratan Kaur was strangled to death by some assailants in her residence in Kashmir Avenue in Amritsar City. Parveen Puri, Advertisement Manager of Daily Ajit, Jalandhar was examined as DW 2 to prove similar news item. Ravinder Kapila, a representative of Hind Samachar Ltd was examined as DW 3 to prove a report Ex. DW3/A in Punjab Kesari dated 26.4.1989 to the effect that Manmohan Singh had killed his father's a sister for the sake of cash and jewellery and escaped with revolver used for killing. Vikram, an employee of Punjab Gas Service was examined as DW 4 to prove that gas connection in favour of Trilok Singh. Gali Patwarian No. 3 Gopal Nagar, Majitha Road, Amritsar was issued on 27.2.1984 and thereafter no connection was issued in favour of the said person.

6. The learned Sessions Judge on considering the evidences adduced in the case including the extra judicial confession of Paranjit Singh and recovery of various articles stolen from the house of Dewan Singh from the possession of the accused came to the finding that Paranjit Singh and Manmohan Singh hatched a conspiracy to kill Ratan Kaur and take possession of revolver and other valuables from the house of the deceased and Manmohan ultimately killed Ratan Kaur and looted the cash, jewellery and other valuable articles. The learned Sessions Judge held accused No. 1 Manmohan Singh guilty for offences under Section 302, 120-B, 454 and 380 IPC and accused No. 2 Paranjit guilty for offences under Section 302/34, 120B, 454 and 380 IPC. For such convictions, the learned Sessions Judge sentenced Manmohan Singh to imprisonment for life and to pay a fine of Rs. 5.000/- in default to undergo further rigorous imprisonment for one month for offence under Section 302 IPC, life imprisonment and a fine of Rs. 2000/- in default further rigorous imprisonment for six months for offence under Section 120B IPC and rigorous imprisonment for two years and fine of Rs. 500/- in default to undergo further rigorous imprisonment for two months for offence under Section 380 IPC. Manmohan Singh was also convicted under Section 25 Arms Act and sentenced to imprisonment for five years and a fine of Rs. 1000/- in default further

imprisonment for two months. In a separate trial before the designated court for offence under Section 5 of TADA Act and Section 25 Arms Act, Paranjit Singh was sentenced to imprisonment for life and a fine of Rs. 2000/- in default of payment to undergo further imprisonment for six months for offence under Section 302/34 IPC, imprisonment for life and fine of Rs. 2000/- in default further imprisonment for six months for offence under Section 120B and sentenced to rigorous imprisonment for three years for offence under Section 454 IPC and two years rigorous imprisonment and a fine of Rs. 500/- in default further imprisonment of one month for offence under Section 380 IPC.

7. Manmohan Singh preferred Criminal Appeal No. 247 DB of 1993 against conviction under Section 302, 120B and 380 IPC. Criminal Appeal No. 277 SB of 1993 against conviction under Section 25 Arms Act before the Punjab and Haryana High Court. Paranjit Singh preferred Criminal Appeal No. 266 DB of 1993 against his conviction and sentence. All the said appeals were disposed of by a common judgment dated 17.4.1994. The High Court has upheld convictions and sentences passed against the appellant Manmohan Singh. The High Court, however, has directed that all the substantive sentences passed against Manmohan Singh including sentence for offence under Section 25 Arms Act, would run concurrently. So far as Paranjit Singh is concerned, the High Court held that the prosecution was able to establish the charge for offence under Section 411 IPC only and other charges could not be established against Paranjit Singh. Paranjit was, therefore, sentenced for offence under Section 411 IPC the imprisonment for the period already undergone by him.

8. Mr. Mahabir Singh, learned Counsel appearing for the appellant, has submitted that in the instant case there is no direct evidence about the complicity of the appellant in the offences alleged against him. It is only on the basis of circumstantial evidence, the prosecution had attempted to prove the case against the appellant. Law is well settled that in circumstantial evidence, each circumstance to be weighed against the accused must be clearly established and all such circumstances established beyond any doubt must form a complete chain which will unmistakably point out the guilt of the accused and excepting the guilt of the accused, no other conclusion can be reasonably drawn. He has also submitted that there may be suspicious and intriguing circumstances established in a case and such circumstances may be likely to point the accusing finger against the accused but even then, no conviction can be based unless from the circumstances established, the guilt of the accused is established without any manner of doubt. Mr. Singh has submitted that the accused is not related with the deceased or the members of her family. Diwan Singh had failed to give the name of the maternal uncle through which the accused is related. Merely by ascertaining that the accused is related to the family of the accused, such relation is not established. In the absence of close relation of the accused with the members of the family of the deceased, it was not expected that the accused would know about the cash, jewellery or the receiver of Diwan Singh. Mr. Singh has also submitted that the case of the prosecution is that the accused attempted to send Amarjit Singh, the son of the deceased, away from the house so as to seek an opportunity to enter the house and loot the valuables from the house by killing the deceased Rattan Kaur. It has, however, come out in the evidence of Amarjit Singh that on two occasions although the accused Manmohan Singh requested the said Amarjit Singh to accompany him to the shop of the gas agent but Amarjit Singh did not accompany him on those occasions. Such fact clearly indicates that the accused intended that Amarjit Singh should accompany the accused to the shop of the gas agent and if the accused goes to the shop being

accompanied by Amarjit Singh, there would be no scope for the accused to come to the house of the deceased in the absence of any male member and to execute his evil design of killing and looting. Mr. Mahabir Singh has also submitted that no reliance should be placed on the deposition of Amarjit Singh. It is unlikely that when Amarjit Singh had noticed the accused Manmohan Singh coming down from their residential portion of the house at the staircase and had also noticed a bundle wrapped in the white sheet in his hands with stains of blood, Amarjit Singh would allow the accused to silently escape from the house without making proper enquiry from the accused. Mr. Singh has also submitted that it is equally unusual conduct on the part of Amarjit Singh that when he had seen his mother lying dead by entering the room on the first floor, he would not immediately chase to apprehend Manmohan Singh who had just then left the house out would go on searching for the purpose of finding out what valuable things had been stolen from the house. Mr. Singh has submitted that such behavior is so unusual that no reliance should be placed on the deposition of Amarjit Singh. He has also submitted that the extra judicial confession made by Paranjit Singh co-accused to Narinder Singh PW 3, should also not be accepted. There is no reason for Paranjit Singh to go to Narinder Singh for making extra judicial confession about his guilt. Mr. Singh has also submitted that criminal conspiracy for murdering the deceased Rattan Kaur has not been accepted by the High Court by indicating that no sufficient material warranting such conspiracy hatched by the accused has been established in the case. Despite extra judicial confession of Paranjit Singh of such conspiracy, the High Court has not placed any reliance on such extra judicial confession so far as conspiracy is concerned. Paranjit Singh has been convicted only for the offence under Section 411 I.P.C. because from his possession some of the articles stolen from the house of the deceased were recovered. Mr. Singh has, therefore, submitted that the prosecution case has not been convincingly established by any clinching evidence so far as the appellant is concerned. His conviction and sentence for the offence of murder, therefore, is liable to be set aside. He has submitted that even if the court is inclined to accept the recovery of some of the valuables from the appellant Manmohan Singh, Manmohan Singh is also liable to be convicted for the offence under Section 411 and also under Section 25 of the Arms Act for the alleged possession of revolver without licence but not on account of any other offence alleged against him.

9. Mr. Jadhav, learned Counsel appearing for the respondent, has, however, disputed the contentions made by Mr. Mahabir Singh. Mr. Jadhav has submitted that Amarjit Singh was related to the family of the deceased. He may not be a very close relation. Even if there may not be close relationship between the parties, the fact remains that Amarjit Singh was accepted as a relation of the family and he was on visiting terms. It has also come out in the evidence of Paranjit Singh the co-accused that the accused Manmohan Singh had told Paranjit Singh that his relation Diwan Singh had revolver, cash and other jewellery in his house. Mr. Jadhav has also submitted that since the accused Manmohan Singh was known to the family and was also a relation of the family, initially Amarjit Singh had no occasion to doubt, when he saw him coming down from the staircase. Manmohan had also given some explanation for not going to the shop of the gas agent. When Amarjit Singh caused enquiry about what was wrapped in the bed sheet. Manmohan had told Amarjit Singh that some food articles were wrapped. When after going to the first floor. Amarjit Singh had found that her mother was lying dead, he had immediately checked up some of the articles and he had deposed that he came down by raising an alarm that her mother had been murdered by Manmohan Singh. Mr. Jadhav has submitted that there was nothing unusual in the

behavior of Amarjit Singh. It is very difficult to predict how one person, in a situation, will react. Mr. Jadhav has submitted that conviction has not been based on surmise and conjecture. From the possession of the accused articles stolen from the house and the revolver had been recovered including a costly watch. Evidence has been clearly led by examining the repairer of the watch and the repairer of the camera that such watch and camera recovered from the accused belonged to Diwan Singh and at his instance and payment made by Diwan Singh, repair of the watch and camera was made. Even the purse of Diwan Singh was recovered from the accused Manmohan Singh. Such facts clearly establish that it was Manmohan Singh and no one else who had murdered the deceased Rattan Kaur. Therefore, the conviction and sentences passed against him are wholly justified and no interference is called for against - such conviction and sentence.

10. After giving our careful consideration to the facts and circumstances of the case and also considering the evidences adduced in the case through which we have been taken by the learned Counsel for the parties, it appears to us that the accused Manmohan Singh was waiting for the opportunity to loot the valuables from the house of the deceased by killing the deceased, if necessary, in the absence of the male members. On the pretext of giving assistance to him for obtaining a gas connection by going to the shop of the agent of the gas, he made attempts to take Amarjit Singh to the said shop. When Amarjit Singh had informed him on the third occasion that he would shortly go there and the accused Manmohan Singh should wait in the said shop, the accused Manmohan Singh did not go to the shop and waited for the opportunity to enter the house in the absence of Amarjit and Diwan and commit the crime. It has been established by evidence that it is only through the staircase, one can enter the residential portion of the deceased. The accused Manmohan Singh was found coming down from the first floor by the staircase when Amarjit Singh returned from the shop of the gas agent by not finding Manmohan Singh in the said shop of the agent. Manmohan Singh appeared to be nervous by seeing Amarjit Singh and by giving false excuse about his not going to the shop, he had hurriedly left the place. Amarjit Singh, after reaching the first floor, discovered his mother lying dead. In our view, the conduct of Amarjit Singh in searching the revolver and some of the valuable articles missing from the house is not at all unusual for which a doubt may be entertained against the veracity of Amarjit Singh. Amarjit Singh within a very short time came down by shouting that Manmohan had killed his mother. He also immediately lodged the F.I.R. where he had given the description of some of the stolen articles checked up by him at that time. Such stolen articles have been recovered from the possession of Manmohan Singh and the co accused. In our view, Mr. Jadhav is justified in his submission that even if Manmohan Singh was not closely related to the family of the deceased, he was accepted to be a relation and he used to come to the house. He himself claimed to be a relation of the family and stated to the co accused that Diwan Singh was his relation and Diwan possessed a revolver and also cash and valuables. The identity of the revolver recovered from Manmohan Singh and also the costly watch (Rolex) has been clearly established. Manmohan Singh was found coming out of the residential portion of the house in the first floor immediately after the incident and was found carrying some articles wrapped in a white sheet with stains of blood.

11. In the aforesaid circumstances, we do not find any reason to take a view contrary to the view taken by the High Court. These appeals, therefore, fail and are dismissed.