

DEPARTMENT OF LAWS
PANJAB UNIVERSITY, CHANDIGARH

Before
THE HON'BLE DISTRICT COURT, CHANDIGARH

DC No. _____/2024

IN THE MATTER OF

State (Petitioner)

VERSUS

1. X
2. Y

(Respondent)

Counsel on Behalf of Respondent

Adv. Rajavikrant Sharma

Roll No. 288/22

Section I

TABLE OF CONTENTS

SERIAL No.	N	PAGE No.
1	LIST OF ABBREVIATIONS	
2	INDEX OF AUTHORITIES	
3	STATEMENT OF JURISDICTION	
4	STATEMENT OF FACTS	
5	STATEMENT OF ISSUES	
6	SUMMARY OF ARGUMENTS	
7	ARGUMENTS ADVANCED	
8	PRAYER	

LIST OF ABBEVIATIONS

AIR	ALL INDIA REPORTER
U/S	UNDER SECTION
HC	HIGH COURT
ORS	OTHERS
SC	SUPREME COURT
v.	VERSUS
HON'BLE	HONOURABLE

INDEX OF AUTHORITIES

LIST OF JUDICIAL PRECEDENTS CITED

<u>Name of the case</u>	<u>Citation</u>
Barendra Kumar Ghosh v. King Emperor	<u>1925</u>
<u>R v. Jogendra Kumar (1971)</u>	<u>2003 SC 56</u>
<u>Rakesh And Another v. State Of Uttar Pradesh</u>	<u>2021 SC 556</u>
<u>Anwar Ali vs. The State Of Himachal Pradesh</u>	<u>2020 SC 1121</u>
State of Haryana v. Jagbir Singh	<u>2022 SC 21</u>

STATUTES

The Indian Penal Code, 1860

WEBSITES

<https://indiankanoon.org/>

<http://www.scconline.com/>

<http://www.manupatra.com/>

<http://www.ebcreader.com/>

BOOKS REFFERED

1. India's Penal Code by S.N. Mishra

STATEMENT OF JURISDICTION

The Hon'ble District Court of Chandigarh has the jurisdiction to hear this matter under section 34, 300, 302, 390, 392, 397 of Indian Penal Code, 1860.

34 - Acts done by several persons in furtherance of common intention: —When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

300 - Murder: Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or— 2ndly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused,

or— 3rdly.—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death,

or— 4thly.—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Exception 1. —When culpable homicide is not murder. —Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident. The above exception is subject to the following provisos: —

First. —That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly. —That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly. —That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation. —Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

302 - Punishment for murder. —Whoever commits murder shall be punished with death, or 1 [imprisonment for life], and shall also be liable to fine.

390 - Robbery: In all robbery there is either theft or extortion.

When theft is robbery. —Theft is “robbery” if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end voluntarily

causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.

When extortion is robbery. —Extortion is “robbery” if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Section 392 - Punishment for Robbery:

Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

Section 397 - Robbery or Dacoity, with attempt to cause death or grievous hurt:

If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, so attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

STATEMENT OF FACTS

Late one night, two masked individuals, X and Y, attempt to rob a posh jewellery store, "The Park Lane Jewels," located in a high-security area. While planning the robbery, X convinces Y that eliminating Mr. Singh, the security guard, is necessary for a clean getaway. During the robbery attempt, Y follows X's plan and shoots Mr. Singh before the struggle even begins.

X and Y then proceed to rob the store and escape with a significant amount of jewellery.

X and Y are apprehended by the police.

LEGAL ISSUE

1. Whether the respondent, i.e. X be held liable under section 34 read with 302?
2. Whether Y is liable for committing murder and be convicted under sec 302?

SUMMARY OF ARGUMENTS

1. Whether the respondent, i.e. X be held liable under section 34 read with 302 of IPC?

Based on the principles outlined in section 34 of the applicable law and supported by relevant case law, the petitioner respectfully asserts that X is unequivocally liable for conspiracy and joint liability in the commission of the crime.

Therefore, the petitioner prays that this Honorable Court adjudges X guilty under section 34 read with 302 and metes out appropriate legal consequences in accordance with the law.

2. Whether Y is liable for committing murder and be convicted under sec 302 of IPC?

It is humbly submitted before the Hon'ble Court that the accused had intentionally committed the murder of Mr. Singh, the security guard following X's Plan. It is submitted to the court that the accused has murdered the deceased under sec 300 of IPC falling under second clause which clearly states that culpable homicide is murder if it is done with intention of causing such bodily injury as the offender knows to be likely to cause death of the person to whom harm is caused and hence punishable under sec 302 IPC.

ADVANCED ARGUMENTS

1. Whether the respondent, i.e. X be held liable under section 34 read with 302 of IPC?

It is humbly submitted that the present case revolves around the culpability of the respondent, X, under section 34 of the IPC.

Section 34: *Acts done by several persons in furtherance of common intention*

It imposes joint liability on individuals who, acting in furtherance of a common intention, commit a criminal act. The petitioner contends that X, through active participation and instigation, shares responsibility for the criminal act committed in furtherance of the common intention.

1. Existence of Common Intention: Section 34 necessitates the existence of a common intention between two or more persons to commit a criminal act.

In the present case, X and Y collaborated to perpetrate a robbery at "The Park Lane Jewels." During the planning phase, X convinced Y that eliminating Mr. Singh, the security guard, was imperative for a successful robbery. This unequivocally demonstrates the existence of a shared intention between X and Y to commit the crime.

The legal precedent established in the case of **Barendra Kumar Ghosh v. King Emperor (1925)** underscores that the Privy Council held that if two or more persons commit a criminal act in furtherance of a common intention, each is liable for the act committed by any of them.

2. Active Participation by X: X actively participated in orchestrating the robbery and played a significant role in persuading Y to eliminate Mr. Singh. X's instigation directly contributed to the commission of the criminal act.

The legal precedent established in the case of **R v. Jogendra Kumar (1971)** underscores that when one conspirator acts in furtherance of the common intention, all conspirators are held liable for the resulting act.

3. Joint Liability: The principle of joint liability under section 34 stipulates that each person who acts in furtherance of the common intention is liable for the criminal act as if done by them individually. X and Y's actions were intertwined and aimed at achieving a common objective –

the successful execution of the robbery. Therefore, X bears joint liability for the criminal act committed by Y.

4. Preventable Crime: X's instigation and active involvement in planning the elimination of Mr. Singh directly contributed to the commission of the crime.

Sec 300- Murder:

Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

2ndly. —If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3rdly. —If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

4thly. —If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

It is humbly submitted that under Indian Penal Code (IPC) provisions, that the Respondent no. 1 be held criminally liable for the murder of Mr. Singh,

Conclusion: The petitioner respectfully submits that the respondent, X, is liable under section 34 read with section 302 for his active participation and instigation in furtherance of the common intention to commit the robbery at "The Park Lane Jewels." The evidence presented unequivocally establishes X's culpability, and the principles of joint liability mandate holding X accountable for the criminal act committed. The petitioner urges this Honorable Court to adjudicate in accordance with the law and find the respondent, X, guilty under section 34 read with section 302.

2. Whether Y is liable for committing murder and be convicted under sec 302 of IPC?

It is humbly submitted before the Hon'ble Sessions court that the Respondent no 2 had deliberately committed the murder of Mr. Singh (the deceased hereinafter) by shooting following Respondent no. 1 plan. It is humbly submitted before the hon'ble court that the accused has murdered the deceased under sec 300 of IPC falling under first clause which clearly states that culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death.

That the Respondent no. 2 must be convicted under Section 302 for murder, Section 392 for robbery, Section 397 of the Indian Penal Code (IPC):

Sec 300- Murder

Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

2ndly. —If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3rdly. —If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

4thly. —If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

It is humbly submitted that under Indian Penal Code (IPC) provisions, that the Respondent no. 1 and 2 be held criminally liable for the murder of Mr. Singh, as well as for the offense of robbery.

Section 302 - Punishment for Murder:

Whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine.

That Respondent no. 2, with cold premeditation, decided to arm himself and shoot Mr. Singh, a dedicated security guard performing his duty. This act of murder was no accident; it was calculated, as evidenced by the planning stage where Respondent no. 2 agreed to the suggestion of eliminating any potential witnesses.

The Supreme Court, in **Rakesh And Another v. State Of Uttar Pradesh**, has upheld convictions under Section 302 IPC for direct acts of causing death.

That the Respondent no. 2 actions align with this precedent, warranting a conviction under Section 302 IPC for murder.

Section 392 - Punishment for Robbery

Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

Furthermore, the Respondent no 1 and 2 engaged in an act of robbery, which is punishable under Section 392 IPC. They not only planned but executed a heinous theft, endangering lives and property. The Supreme Court has consistently upheld convictions for robbery in conjunction with other offences, as seen in **Anwar Ali vs. The State Of Himachal Pradesh**, where the accused were convicted for offences under Sections 302 read with 34, 392, 201, and 420 IPC.

Section 397- Robbery or dacoity, with attempt to cause death or grievous hurt:

If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, so attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

That the Respondent no. 1 culpability extends beyond murder and robbery. His actions also fall under Section 397 IPC, which prescribes punishment for robbery or dacoity with an attempt to cause death or grievous hurt. The use of a firearm during the robbery exacerbates the severity of the crime, making it imperative that Mr. Y be held accountable to the fullest extent of the law.

That the actions of Respondent no. 1 were not only in violation of the IPC but also an affront to our society's moral fabric. It is the State's contention that Respondent no. 1 be convicted under Section 302 for the murder of Mr. Singh, Section 392 for robbery.

Section 34 IPC:

Acts done by several persons in furtherance of a common intention, establishing joint liability for criminal acts committed as part of a joint enterprise.

Furthermore, the Respondents 1 and 2 acted in the act with a shared intention to commit robbery, as proved by their premeditated planning and coordination. The discussions between the Respondents 1 and 2 regarding the need of eliminating Mr. Singh, the security guard, demonstrate a common intention to use violence to facilitate their criminal enterprise. Therefore, under Section 34 IPC, both X and Y bear joint liability for the murder of Mr. Singh, regardless of which individual directly committed the act.

In case of held that the second clause of section 300 will apply if there is first, the intention to cause bodily harm and next, there is the "subjective knowledge" that death will be the likely consequence of the intended injury.

X and Y should have reasonably foreseen that their actions possibly will lead to grave harm or death. The inherent risks associated with armed robbery, including the potential for violence against security personnel, were evident to both defendants. Despite this predictable risk, X and the Respondents no. 2 proceeded with their plan, indicating a reckless disregard for human life. Therefore, their culpability for Mr. Singh's murder is established based on their failure to prevent the foreseeable consequences of their criminal demeanour.

State of Haryana v. Jagbir Singh (2011): In this case, the accused was convicted of premeditated murder, and the Supreme Court upheld the conviction. The judgment highlighted the importance of motive, opportunity, and circumstantial evidence in proving planned murder under Section 302(1) of the IPC.

Hence It is humbly submitted that X and Y exhibited consciousness of guilt through their post-crime behavior. Following the shooting of Mr. Singh, X and Y attempted to flee the scene and took steps to conceal their involvement in the crime. Such actions are indicative of their awareness of the wrongful nature of their conduct and their desire to evade culpability. Consciousness of guilt is a compelling factor in establishing criminal intent and culpability, further solidifying the case against X and Y for the murder of Mr. Singh.

PRAYER

Wherefore in the light of the facts presented, issues raised, arguments advanced and authorities cited, it is humbly requested that this Hon'ble Court may be pleased to adjudge and declare:

1. To convict the accused, Y, under Section 302, 300, 392, 397 of the Indian Penal Code.
2. To convict the accused, X, under Section 34, 302, 300, 392, 397 of the Indian Penal Code.

AND/OR

The court may be pleased to pass any other appropriate order, which the Hon'ble court may deem fit in the interests of justice, equity and good conscience.

All of which is most humbly and respectfully submitted.

Place: Chandigarh

Date:

S/D

Counsel for the Respondent
Advocate Rajavikrant Sharma