

Supreme Court of India

State Of Punjab vs Gurmail Singh on 21 September, 1988

Equivalent citations: 1989 (20) ECR 313 SC, JT 1989 (1) SC 1, 1990 Supp (1) SCC 67

Author: M Thakkar

Bench: M Thakkar, B Ray

JUDGMENT M.P. Thakkar, J.

1. Whether the respondent (original accused) was guilty of the offence of murdering his sister-in-law, her two minor daughters, as also of murdering three minor daughters of his own at his own house at about 4.00 A.M. on the night between August 19 and 20, 1974 is the question which has been answered in negative by the High Court. The edifice, of the prosecution case was built entirely on the evidence of two alleged eye-witnesses, viz. PW 2 Leela Singh and PW 3 Jaswant Singh who were residing in the neighborhood. The version PW 2 and PW3 that both of them had scaled a 15' high wall after crossing over the roof of the neighbour Binder Singh, entered the house of the respondent stealthily, and had witnessed the crime was disbelieved by the High Court. On PW 2 being confronted with his earlier statement, he was obliged to admit that in his earlier statement he had not even mentioned that he and PW 3 had gone to the house of the respondent on the night of the occurrence. He confessed that he was unable to explain how and in what circumstances such a vital omission occurred. Surely no reliance can be placed on the evidence of such a witness. The evidence of PW 3 has also been rightly discarded as being unreliable. The trial court has come to the conclusion that no motive was established. The High Court has taken the same view. It is incomprehensible why the respondent should murder his own three daughters without any conceivable motive or reason. And that inflicting as many as fifteen incised injuries on one of his daughters and about six incised injuries on each of his two other daughters. The ghastly murders and the brutal manner in which six members of the family have been wiped out are suggestive of Vendatta against the family and not against individual members of the family. There is also the evidence of the father of the respondent to the effect that on that night the respondent was with him at the clinic where he was being treated for insecticide poisoning. Be that as it may, the evidence of PW2 and PW3 does not carry conviction that the respondent committed the crime just after they entered the house on hearing the cries. Surely respondent was not waiting for PW 2 and PW3 before launching on the murder spree. This evidence does not inspire confidence and has been rightly rejected by the High Court. The defense has stressed the importance and implication of the circumstance that the son of neighbour Bir Singh had murdered the elder brother of the respondent on account of enmity and had even been convicted for that offence. Bir Sing himself had been prosecuted in connection with the very same offence though ultimately he had been acquitted by the Court. The suggestion was that very possibly Bir Singh who had enmity with the respondent's father might have committed the crime. But it is sufficient for the defense to show that the prosecution has not established its case. It is unnecessary for defence to show who had committed the crime.

2. The High Court was perfectly justified in acquitting the respondent. We, therefore, see no reason to disturb the finding recorded by the High Court. The appeal accordingly fails and is dismissed.