

[2012] 7 S.C.R. 91

JAGROOP SINGH
v.
STATE OF PUNJAB
(Criminal Appeal No. 67 of 2008)

JULY 20, 2012

[K.S. RADHAKRISHNAN AND DIPAK MISRA, JJ.]

Penal Code, 1860 - s.302 r/w ss.34 and 201 - Murder - Circumstantial evidence - Appreciation of - Three accused - Conviction of accused-appellant by courts below - Justification of - Held: Justified - Deceased was last seen with the accused persons - Appellant made extra-judicial confession before PW14 admitting his guilt - The confessional statement was totally voluntary and by no means tainted - Weapon used in the crime, spade, was recovered on the basis of disclosure statement made by the appellant - Disclosure statement was signed by PW14 and another witness - Procedure followed for discovery was absolutely in accord with law - Appellant gave no explanation as to how human blood could be found on the spade, which is used for agriculture - No substantial reason to disbelieve the disclosure statement and the recovery of the spade - Doctor who had conducted the post mortem had clearly opined that injuries on the person of the deceased could be caused by the blade of the spade and the said opinion went un rebutted - Though incriminating circumstances pointing to the guilt of the appellant had been put to him, yet he could not give any explanation u/s.313 CrPC except choosing the mode of denial - No trace of doubt that all the circumstances completed the chain and singularly pointed to the guilt of the accused persons.

Evidence Act, 1872 - ss. 24, 25 and 26 - Extra judicial confession - Appreciation of - Held: Extra-judicial confession, if true and voluntary, can be relied upon by the court to

- A *convict the accused for commission of the crime alleged - Despite inherent weakness of extra-judicial confession as an item of evidence, it cannot be ignored when shown that such confession was made before a person who has no reason to state falsely and his evidence is credible - Corroboration of*
- B *such evidence is required only by way of abundant caution.*

C **In a case concerning the death of the 10 year old son of PW8, the trial court came to the conclusion that the death was homicidal in nature; that the deceased was last seen with the accused persons; that the accused had made extra-judicial confessions admitting the guilt; that the dead body of the deceased was recovered from the field of the father of accused-appellant; that the weapon used in the crime was recovered on the basis of the disclosure statement made by accused-appellant; that as**

D **per the report of Forensic Science Laboratory, the weapon used, spade, was found stained with human blood; and that the doctor who had conducted the post mortem had clearly stated that the injuries found on the body of the deceased could be caused by the seized**

E **weapon. On the aforesaid basis, the trial court came to hold that the prosecution had been able to prove the case against the accused persons beyond reasonable doubt and accordingly convicted the accused-appellant and co-**

F **accused 'BS' under Sections 302 read with Section 34 and 201 of IPC and sentenced them to rigorous imprisonment for life. In appeal, the High Court concurred with the view expressed by the trial court.**

G **In appeal to this Court, the appellant challenged his conviction inter alia on the grounds: - (a) that the circumstances which weighed with the lower Courts, namely, last seen with the deceased, extra-judicial confession made by the accused before PW2, and PW14, and recovery of spade and body of the deceased near**

H **the field of the father of the accused-appellant at his**

instance were unacceptable inasmuch as the testimony of witnesses were replete with improvement, embellishment and contradiction; (b) that the time gap between the point of time when the accused was last seen with the deceased and when the deceased was found dead was of long duration and, therefore, the said circumstance was liable to be ignored; (c) that the reliance on extra-judicial confession before PW2 and PW14 was unacceptable inasmuch as the confession was made after 18 days which made it absolutely dented; there was no earthly reason that the appellant would confess before PW2, since there was prior enmity between PW8 and the appellant and PW2, is a close relation of PW8 and that apart, there were improvements in the course of examination in court and the same made the extra-judicial confession, a weak piece of evidence, wholly unreliable and (d) that the circumstance pertaining to recovery of the weapon (spade) was not credible since there was incurable discrepancy with regard to the place of recovery; and further, though the seized earth and the weapon (which was found stained with human blood) were sent for examination, the report was silent as regards the matching of blood group with that of the deceased and such lack of corroboration made the said circumstance hollowed and the judgment of conviction sensitively vulnerable.

Inasmuch as the entire case rested on circumstantial evidence, the question which arose for consideration in the instant appeal was whether the circumstances of the case established the guilt of the accused-appellant beyond reasonable doubt.

Dismissing the appeal, the Court

HELD:

A Reliability and credibility of the 'last seen' theory as propounded by the prosecution.

1.1. The testimony of PWs-8, 10 and 17 are relevant for the purpose of arriving at the conclusion whether the circumstance of 'last seen' has been established. PW8, the father of the deceased, has categorically stated that his son had accompanied accused 'J' ['J' was found to be a juvenile and accordingly produced before the appropriate forum]. There is nothing on record to disbelieve the said testimony. As regards the testimony of PW17, the omissions and the improvements highlighted are absolutely minor. The only omission is that he had not stated that they were going to the field of the appellant. As regards the improvement he has made that the accused persons had told him why he was speaking ill of them, these aspects do not affect the core of the prosecution case. Though the evidence of PW10 was criticised on the base that he had stated before the police that he had seen the accused persons and not before anyone else whereas the PW8 had stated the he had said so before him, the aforesaid discrepancy cannot be regarded to have created any dent in the prosecution story. [Paras 20, 21] [108-G-H; 109-A; 110-E-H; 111-A]

1.2. As per the material on record, the informant (PW8) searched for his son in the village in the late evening and next day in the morning, he went to the fields and the dead body was found. The post-mortem report indicates that the death had occurred within 24 hours. Thus, the duration is not so long as to defeat or frustrate the version of the prosecution. Therefore, there can be no trace of doubt that the deceased was last seen in the company of the accused persons. [Para 22] [111-B-C]

Sharad Birdhichand Sarda v. State of Maharashtra AIR 1984 SC 1622; 1985 (1) SCR 88; Padala Veera Reddy v. State of Andhra Pradesh and others 1989 Supp (2) SCC 706;

Ramreddy Rajesh Khanna Reddy and another v. State of A.P. (2006) 10 SCC 172: 2006 (3) SCR 348; *Balwinder Singh v. State of Punjab* AIR 1996 SC 607: 1995 (5) Suppl. SCR 10; *Harishchandra Ladaku Thange v. State of Maharashtra* AIR 2007 SC 2957: 2007 (9) SCR 562; *State of U.P. v. Ashok Kumar Srivastava* AIR 1992 SC 840: 1992 (1) SCR 37; *Ram Singh v. Sonia and Ors.* AIR 2007 SC 1218: 2007 (2) SCR 651; *Ujagar Singh v. State of Punjab* (2007) 13 SCC 90: 2007 (13) SCR 653; *State Rep. by Inspector of Police v. Saravanan and anr.* AIR 2009 SC 152: 2008 (14) SCR 405 and *Sunil Kumar Sambhudayal Gupta (Dr.) and others v. State of Maharashtra* (2010) 13 SCC 657: 2010 (15) SCR 452 - relied on.

Shivaji Sahebrao Bobade v. State of Maharashtra (1973) 2 SCC 793: 1974 (1) SCR 489 - referred to.

Extra- judicial confession

2.1. Extra judicial confession, if true and voluntary, can be relied upon by the court to convict the accused for the commission of the crime alleged. Despite inherent weakness of extra-judicial confession as an item of evidence, it cannot be ignored when shown that such confession was made before a person who has no reason to state falsely and his evidence is credible. The evidence in the form of extra-judicial confession made by the accused before the witness cannot be always termed to be tainted evidence. Corroboration of such evidence is required only by way of abundant caution. If the court believes the witness before whom the confession is made and is satisfied that it was true and voluntarily made, then the conviction can be founded on such evidence alone. The aspects which have to be taken care of are the nature of the circumstances, the time when the confession is made and the credibility of the witnesses who speak for such a confession. That apart, before relying on the confession, the court has to be satisfied

A that it is voluntary and it is not the result of inducement, threat or promise as envisaged under Section 24 of the Evidence Act or brought about in suspicious circumstances to circumvent Sections 25 and 26. [Para 24] [112-A-E]

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2.2. In the instant case, there is no dispute that the confession was made before PW14 after 18 days. The fact remains that PW14 was not in the village and three days after his arrival in the village, the confession was made before him. He has clearly deposed that accused 'J' and appellant had confessed before him about the crime and he had produced them before the ASI. True it is, he has improved his version in the cross-examination that he has strained relationship with the complainant which he had not stated in his statement under Section 161 Cr.P.C but the same cannot make the testimony tainted. Barring that, there is nothing in the cross-examination to discredit his testimony. That apart, there is no suggestion that he had not produced the appellant before the police. There may be some relationship between the informant and this witness but the evidence is totally clear and the confessional statement is voluntary and, in no way, appears to be induced and gets further strengthened by the fact that he produced them before the police. There is no suggestion whatsoever that he had applied any kind of force. It is borne out from that record that accused 'BS' had absconded and the appellant along with accused 'J' came to PW8 and confessed and 'BS' confessed before PW-10. In the confessional statement, he has stated about the place where the spade was hidden and led to the recovery to which PW14 is a witness. Appreciated from these angles, it is clear that the said confessional statement inspires confidence as the same is totally voluntary and by no means tainted. [Para 26] [113-C-H; 114-A]

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Gura Singh v. State of Rajasthan (2001) 2 SCC 205: 2000 (5) Suppl. SCR 408 and *Sahadevan & Another v. State of Tamil Nadu* 2012 AIR SCW 3206- relied on. A

Rao Shiv Bahadur Singh v. State of Vindhya Pradesh AIR 1954 SC 322; *Maghar Singh v. State of Punjab* AIR 1975 SC 1320; *Narayan Singh v. State of M.P.* AIR 1985 SC 1678; *Kishore Chand v. State of H.P.* AIR 1990 SC 2140; *Baldev Raj v. State of Haryana* AIR 1991 SC 37; *Sk. Yusuf v. State of W.B.* (2011) 11 SCC 754; 2011 (8) SCR 83 and *Pancho v. State of Haryana* (2011) 10 SCC 165 : AIR 2012 SC 523: 2011 (12) SCR 1173 - referred to. B C

Recovery of the weapon of offence

3. In the case at hand, the accused led to recovery of the spade from the wheat field near the heap of sticks. The disclosure statement has been signed by PW14 and another witness. The procedure followed for discovery is absolutely in accord with law and has not been challenged. The accused persons were arrested after 18 days and recovery was made at that time. The blood stain found on the weapon has been found in the serological report as human blood. The accused have not given explanation how human blood could be found on the spade used for agriculture which was recovered at their instance. Thus viewed, there is no substantial reason to disbelieve the disclosure statement and the recovery of the weapon used. The doctor, who conducted the post mortem, has clearly opined that the injuries on the person of the deceased could be caused by the weapon (blade of such spade) and the said opinion has gone unrebutted. [Paras 27, 28 and 29] [114-B-C; G; 115-B, E-F] D E F G

Sattatiya Alias Satish Rajanna Kartalla v. State of Maharashtra (2008) 3 SCC 210: 2007 (11) SCR 238 - distinguished. H

A *John Pandian v. State Represented by Inspector of Police, Tamil Nadu (2010) 14 SCC 129 - relied on.*

B 4. Another aspect is to be taken note of. Though the incriminating circumstances pointing to the guilt of the accused had been put to him, yet he could not give any explanation under Section 313 CrPC except choosing the mode of denial. [Para 30] [115-F-G]

C *State of Maharashtra v. Suresh (2000) 1 SCC 471: 1999 (5) Suppl. SCR 215 - referred to.*

D 5. The prosecution is not required to meet any and every hypothesis put forward by the accused. In the instant case, all the three circumstances which have been established by the prosecution complete the chain. There can be no trace of doubt that the circumstances have been proven beyond reasonable doubt and singularly lead to the guilt of the accused persons. There is no infirmity in the judgment of conviction and order of sentence recorded by the trial court which has been affirmed by the High Court. [Paras 31 and 32] [116-D-F]

E *Sucha Singh and another v. State of Punjab (2003) 7 SCC 643: 2003 (2) Suppl. SCR 35 - relied on.*

Case Law Reference:

F	1985 (1) SCR 88	relied on	Para 13
	1974 (1) SCR 489	referred to	Para 13
	1989 Supp (2) SCC 706	relied on	Para 14
G	2006 (3) SCR 348	relied on	Para 14
	1995 (5) Suppl. SCR 10	relied on	Para 15
	2007 (9) SCR 562	relied on	Para 16
H	1992 (1) SCR 37	relied on	Para 17

2007 (2) SCR 651	relied on	Para 18	A
2007 (13) SCR 653	relied on	Para 19	
2008 (14) SCR 405	relied on	Para 21	
2010 (15) SCR 452	relied on	Para 21	B
2000 (5) Suppl. SCR 408	relied on	Para 24	
AIR 1954 SC 322	referred to	Para 24	
AIR 1975 SC 1320	referred to	Para 24	C
AIR 1985 SC 1678	referred to	Para 24	
AIR 1990 SC 2140	referred to	Para 24	
AIR 1991 SC 37	referred to	Para 24	D
AIR SCW 3206	relied on	Para 25	
2011 (8) SCR 83	referred to	Para 25	
2011 (12) SCR 1173	referred to	Para 25	E
2007 (11) SCR 238	distinguished	Para 27	
(2010) 14 SCC 129	relied on	Para 28	
1999 (5) Suppl. SCR 215	referred to	Para 30	F
2003 (2) Suppl. SCR 35	relied on	Para 31	

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 67 of 2008.

From the Judgment & Order dated 23.11.2005 of the High Court of Punjab & Haryana at Chandigarh in Criminal Appeal No. 199/DB of 1997.

Nikhil Goel, Marsook Bafaki (for Sheela Goel) for the Appellant.

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A Jayant K. Sud, AAG, Kuldip Singh for the Respondent.

The Judgment of the Court was delivered by

DIPAK MISRA, J. 1. This appeal preferred by special leave under Article 136 of the Constitution of India calls in question the judgment of conviction and order of sentence passed by the Division Bench of the High Court of Punjab and Haryana in Criminal Appeal No. 199/DB of 1997 whereby the High Court has affirmed the conviction and confirmed the sentence passed by the learned Sessions Judge, Faridkot, in Sessions Trial No. 31 of 1992 wherein he had found that the appellants along with one Bikkar Singh was guilty of the offences punishable under Sections 302 read with Section 34 and 201 of the Indian Penal Code 1860 (for short 'the IPC') and sentenced the accused persons to suffer rigorous imprisonment for life and to pay a fine of Rs.500/-, in default of payment of fine, to undergo further rigorous imprisonment for two months each on the first count and rigorous imprisonment for three years and to pay a fine of Rs.200/-, in default, to suffer further rigorous imprisonment for one month each on the second score with the stipulation that both the substantive sentences shall be concurrent.

2. The factual matrix giving rise to the trial is that about 3.15 p.m. on 2.4.1991, when Sukhdev Singh, PW-8, was feeding fodder to his cattle at his house, accused Jagsir Singh came to his house and asked his son, Jagjit Singh @ Jagga, to accompany him for plucking flowers from the field. Jagjit Singh, a 10 year old boy, accompanied him. As the boy did not return home till evening, the complainant went to the house of Jagroop Singh, Uncle of Jagsir Singh, to enquire about his son. As the doors were not opened and there was no response he searched for his son in the village but could not find him. On the next day, in the morning he proceeded with the co-villagers to search for the boy in the fields. After he reached the fields of Santosh Singh, he found some freshly dug earth near a heap of sticks. Being suspicious, all of them dug out the earth and

found the dead body of Jagjit Singh lying buried over there having injury marks on the head. Sukhdev Singh left his brother Gurmail Singh there for guarding the body and proceeded towards the police station. On the way near the bus stand he met ASI Surjit Singh who recorded his statement and accompanied him to the fields of Jagroop Singh. The investigating officer prepared the inquest report, recovered the blood stained weapon of offence and sample of earth smeared with blood, prepared two distinct sealed parcels thereof, Exhibits P-1 and P-2, and sent the dead body for post mortem. In the FIR, it was stated that the deceased had been murdered by Jagsir Singh with the aid and assistance of other persons and they had buried the dead body.

3. As the factual narration would reveal, on 21.4.1992, Jagroop Singh and Jagsir Singh made an extra judicial confession before Natha Singh, PW 14, and accused Bikkar Singh made an extra-judicial confession before Zora Singh, PW-2, and both Natha Singh and Zora Singh produced the accused persons before the police. After being arrested, they led to the discovery of one 'Kassi' (spade) which was buried under the ground near the place wherefrom the dead body was recovered. The seized weapon was sent for chemical analysis examination in the forensic science laboratory and after completing the investigation, the investigating officer placed the charge-sheet before the concerned Magistrate, who committed the matter to the Court of Session for trial of offences under Section 302 read with Section 34 and 201 of IPC. Be it noted, in the course of investigation, it was found that Jagsir Singh was a juvenile and was produced before the appropriate forum at Bhatinda.

4. Both the accused persons denied the charge and pleaded false implication due to animosity.

5. The prosecution, to prove its case, examined Dr. Devinder Mittal, the autopsy surgeon as PW-1, Zora Singh, PW-2, Sukhdev Singh, PW-8, Gurdev Singh, PW-10, Natha

A Singh, PW-14, Balwinder Singh, PW-17 and ASI Surjit Singh, PW-18, as principal witnesses. The rest of the witnesses are formal witnesses. The reports of the Forensic Science Laboratory and many other documents were brought on record and marked as exhibits.

B 6. The defence chose not to adduce any evidence.

7. The learned trial Judge, on appreciation of the evidence brought on record, came to hold that the death of the deceased Jagjit Singh was homicidal in nature; that the deceased was last seen with the accused persons; that the accused had made extra-judicial confessions admitting the guilt; that the dead body of the deceased was recovered from the field of the father of accused Jagroop Singh; that the weapon used in the crime was recovered on the basis of the disclosure statement made by accused Jagroop Singh; that as per the report of Forensic Science Laboratory, the weapon used, spade, was found stained with human blood; and that the doctor who had conducted the post mortem had clearly stated that the injuries found on the body of the deceased could be caused by the seized weapon. On the aforesaid basis, he came to hold that the prosecution had been able to prove the case against the accused persons beyond reasonable doubt and accordingly recorded the conviction and imposed the sentence.

F 8. On an appeal being preferred, the High Court reappreciated the evidence and came to hold that the circumstantial evidence from all spectrums led to the only conclusion that the accused persons had committed the crime and concurred with the view expressed by the learned trial Judge.

G 9. We have heard Mr. Nikhil Goel, learned counsel for the appellant, and Mr. Jayant K. Sood, learned Additional Advocate General for the respondent-State.

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10. The learned counsel for the appellant has raised the following contentions: -

- (a) The learned trial Judge as well as the High Court has not appreciated the evidence brought on record in proper perspective keeping in view the parameters laid down by this Court in various authorities relating to restriction of conviction on circumstantial evidence and hence, the judgments are unsustainable in law. A
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- (b) The circumstances which have weighed with the Courts, namely, last seen with the deceased, the extra-judicial confession made by the accused before Zora Singh, PW-2, and Natha Singh, PW-14, and recovery of spade and body of the deceased near the field of the father of the accused-appellant at his instance are unacceptable inasmuch as the testimony of witnesses are replete with improvement, embellishment and contradiction. C
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- (c) The time gap between the point of time when the accused was last seen with the deceased and when the deceased was found dead is of long duration and, therefore, the said circumstance is to be ignored. E
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- (d) The reliance on extra-judicial confession before Zora Singh, PW-2 and Natha Singh, PW-14 is unacceptable inasmuch as the confession was made after 18 days which makes it absolutely dented. There is no earthly reason that the appellant would confess before Zora Singh, PW-2, since there was prior enmity between the informant and the appellant and Zora Singh, PW-2, is a close relation of the father of the deceased. That apart, there are improvements in the course of G
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A examination in court and the same makes the extra-judicial confession, a weak piece of evidence, wholly unreliable.

B (e) The circumstance pertaining to recovery of the weapon is not to be given any credence. There is incurable discrepancy with regard to the place of recovery. Further, though the seized earth and the weapon were sent for examination, the report is silent as regards the matching of blood group with that of the deceased and such lack of corroboration makes the said circumstance hollowed and that makes the judgment of conviction sensitively vulnerable.

D 11. The learned counsel for the respondent combated the aforesaid proponent's submissions. The learned counsel has advanced the following submissions:-

E (i) The attack on the last seen circumstance on the foundation that there is a long duration between the last seen and when the dead body was found is totally untenable inasmuch as the opinion in the post mortem report is that the death had occurred within twenty four hours. That apart, the testimony of PW 10 and 17 is unimpeachable since they have stood embedded in their stand.

F (ii) The circumstance of extra-judicial confession cannot be disregarded despite some improvements in the version of Natha Singh, PW 14, as there is no suggestion that his version is tainted. Quite apart from that, after abscondance of the accused Bikkar Singh, he came and confessed before Zora Singh and the present appellant along with Jagsir Singh before Natha Singh who produced them before the Police and there is nothing on record to state that either Zora Singh,

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- PW-2, or Natha Singh, PW-14, applied any force. A
- (iii) There is no reason to doubt the disclosure statement and leading to recovery on the ground that the weapon was recovered in the nearby field but not in the field of the appellant and there has been no matching of blood stains with that of the appellant's blood. B
- (iv) Both the High Court and the trial court have kept themselves alive to the parameters of circumstances and there can be no trace of doubt that all the circumstances cumulatively prove the guilt of the accused beyond reasonable doubt, for there are no such flaws which would compel a court of law to disregard the vital circumstance and entertain pleas artificially grafted by imagination. C
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12. As is evincible, the entire case rests on circumstantial evidence. Before we analyse and appreciate the circumstances that have weighed with the trial Court and the High Court, we think it apposite to refer to certain authorities pertaining to delineation of cases that hinge on circumstantial evidence. E

13. In *Sharad Birdhichand Sarda v. State of Maharashtra*¹, a three-Judge Bench has laid down five golden principles which constitute the "panchsheel" in respect of a case based on circumstantial evidence. Referring to the decision in *Shivaji Sahebrao Bobade v. State of Maharashtra*², it was opined that it is a primary principle that the accused must be and not merely may be guilty before a Court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions. Thereafter, the Bench proceeded to lay down that the facts so established should be consistent only with the hypothesis of the guilt of the F
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1. AIR 1984 SC 1622

2. AIR 1973 SC 2622 = (1973) 2 SCC 793.

- A accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty; that the circumstances should be of a conclusive nature and tendency; that they should exclude every possible hypothesis except the one to be proved; and that there must be a chain of evidence
- B so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."

- C 14. In *Padala Veera Reddy v. State of Andhra Pradesh and others*³, this Court held that when a case rests upon circumstantial evidence, the following tests must be satisfied: (SCC pp. 710-11, para 10)

- D "(1) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;
- (2) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused;
- E (3) the circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and
- F (4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his
- G innocence."

The similar view has been reiterated in *Ramreddy Rajesh Khanna Reddy and another v. State of A.P.*⁴.

3. 1989 Supp (2) SCC 706 : 1991 SCC (CRI) 407.

H 4. (2006) 10 SCC 172.

15. In *Balwinder Singh v. State of Punjab*⁵, it has been laid down that the circumstances from which the conclusion of guilt is to be drawn should be fully proved and those circumstances must be conclusive in nature to connect the accused with the crime. All the links in the chain of events must be established beyond reasonable doubt and the established circumstances should be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence. In a case based on circumstantial evidence, the Court has to be on its guard to avoid the danger of allowing suspicion to take the place of legal proof and has to be watchful to avoid the danger of being swayed by emotional considerations, however strong they may be, to take the place of proof.

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16. In *Harishchandra Ladaku Thange v. State of Maharashtra*⁶, while dealing with the validity of inferences to be drawn from circumstantial evidence, it has been emphasised that where a case rests squarely on circumstantial evidence, the inference of guilt can be justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused or the guilt of any other person and further the circumstances from which an inference as to the guilt of the accused is drawn have to be proved beyond reasonable doubt and have to be shown to be closely connected with the principal fact sought to be inferred from those circumstances.

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17. In *State of U.P. v. Ashok Kumar Srivastava*⁷, emphasis has been laid that it is the duty of the Court to take care while evaluating circumstantial evidence. If the evidence adduced by the prosecution is reasonably capable of two inferences, the one in favour of the accused must be accepted. That apart, the circumstances relied upon must be established and the cumulative effect of the established facts must lead to a

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5. AIR 1996 SC 607.

6. AIR 2007 SC 2957.

7. AIR 1992 SCW 640 = AIR 1992 SC 840.

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A singular hypothesis that the accused is guilty.

18. In *Ram Singh v. Sonia and Ors.*⁸, while referring to the settled proof pertaining to circumstantial evidence, this Court reiterated the principles about the caution to be kept in mind by Court. It has been stated therein that in a case depending largely upon circumstantial evidence, there is always a danger that conjecture or suspicion may take the place of legal proof. The Court must satisfy itself that various circumstances in the chain of events have been established clearly and such completed chain of events must be such as to rule out a reasonable likelihood of the innocence of the accused. It has also been indicated that when the important link goes, the chain of circumstances gets snapped and the other circumstances cannot in any manner, establish the guilt of the accused beyond all reasonable doubts.

19. In *Ujagar Singh v. State of Punjab*⁹, after referring to the aforesaid principles pertaining to the evaluation of circumstantial evidence, this Court stated that it must nonetheless be emphasised that whether a chain is complete or not would depend on the facts of each case emanating from the evidence and no universal yardstick should ever be attempted.

20. Keeping in view the aforesaid principles, we shall presently proceed to scrutinize and evaluate the circumstances whether the said circumstances establish the guilt of the accused beyond reasonable doubt. First, we shall advert to the reliability and credibility of the 'last seen' theory as propounded by the prosecution. The testimony of PWs-8, 10 and 17 are relevant to be seen for the purpose of arriving at the conclusion whether the circumstance of 'last seen' has been established. PW-8 is the father of the deceased. He has stated that Jagsir Singh, who was residing with Jagroop Singh, his maternal

8. AIR 2007 SC 1218.

9. (2007) 13 SCC 90.

uncle, came to his house and asked Jagjit Singh to accompany him to pluck Genda (marigold) flowers in the field. Jagjit accompanied him. PW-10, Gurdev Singh, has deposed that about 4.00 p.m. when he was going from village Jita Singh Wala to village Mari Mustafa to see his daughter, near a turning outside village Jita Singh Wala, he found that Roop Singh, Bikkār Singh and Jagsir Singh along with deceased Jagjit Singh were proceeding towards the fields. In the cross-examination, he has stated that the road by which the three accused were taking the deceased was known to him as he had earlier gone on that passage and at that time he did not suspect anything. The learned counsel for the appellant has submitted that there is a material contradiction in the statement of Gurdev Singh, PW-10, and that of Sukhdev Singh, PW-8, inasmuch as Gurdev Singh had stated that for the first time he made a disclosure about seeing the deceased in the company of the accused persons whereas Sukhdev Singh had stated that while he was searching for Jagjit Singh, Gurdev Singh told him that he had seen the accused going together with the deceased. Keeping the appreciation and analysis of this evidence in abeyance, it is apt to scan the testimony of PW-17. Balwinder Singh, PW-17, has testified that on 2.4.1991, about 4.00 p.m., he was going to the bus-stand of village Kotla Raika. When he reached the house of Jagroop Singh, he saw all the three accused along with the deceased going towards the field of Jagroop Singh who was carrying a spade with him. He had enquired from Jagjit Singh why he was accompanying the accused with whom they were not on good terms, to which he replied that he had no hostility with his companions and he was going to pluck the flowers. Thereafter, Jagroop Singh told why he was talking ill of them. The learned counsel for the appellant has criticised the evidence of this witness on the ground that he has been convicted of murder of the appellant's brother and he had made two improvements in his statement recorded under Section 161 Cr.P.C. inasmuch as when he has deposed, he had stated before the police that the accused and deceased were going towards the field of Jagroop Singh and further he

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A has stated before the police that the accused had told him why he was talking ill.

21. The contention of the learned counsel for the appellant basically is that there are omissions and improvements in the versions of the witnesses and of such magnitude that they affect the prosecution case. In *State Rep. by Inspector of Police v. Saravanan and anr.*¹⁰, it has been stated that the contradictions/omissions must be of such nature which materially affect the trial. Minor contradictions, inconsistencies, embellishments or improvements which do not affect the core of the prosecution case should not be made a ground to reject the evidence of the witness in entirety. In *Sunil Kumar Sambhudayal Gupta (Dr.) and others v. State of Maharashtra*¹¹, it has been laid down that the omissions which amount to contradictions in material particulars, i.e., go to the root of the case/materially affect the trial or core of the prosecution case, render the testimony of the witness liable to be discredited. Keeping in view the aforesaid principles, when the evidence of these three witnesses are scrutinized, we find that PW 8, the father of the deceased, has categorically stated that his son had accompanied the accused Jagsir. There is nothing on record to disbelieve the said testimony. As regards the testimony of PW-17, the omissions and the improvements which have been highlighted are absolutely minor. In fact, to appreciate the same, we have anxiously perused the statement recorded under Section 161 of the Cr.P.C. and the deposition in Court. We find that this witness has clearly stated that all of them were going towards the field. The only omission is that he had not stated that they were going to the field of Jagroop. As regards the improvement he has made that the accused persons had told him why he was speaking ill of them, in our considered view, these aspects do not affect the core of the prosecution case. The evidence of PW-10, Gurdev Singh, is criticised on the base that he had stated before the police that

10. AIR 2009 SC 152.

H 11. (2010) 12 SCC 657.

he had seen the accused persons and not before anyone else whereas the complainant had stated the he had said so before him. The aforesaid discrepancy cannot be regarded to have created any dent in the prosecution story.

22. Quite apart from the above, what is argued is that there is a long gap between the last seen and recovery of the dead body of the deceased. As per the material on record, the informant searched for his son in the village in the late evening and next day in the morning, he went to the fields and the dead body was found. The post-mortem report indicates that the death had occurred within 24 hours. Thus, the duration is not so long as to defeat or frustrate the version of the prosecution. Therefore, there can be no trace of doubt that the deceased was last seen in the company of the accused persons.

23. The second circumstance pertains to extra-judicial confession. Mr. Goel, learned counsel for the appellant, has vehemently criticized the extra-judicial confession on the ground that such confession was made after 18 days of the occurrence. That apart, it is submitted that the father of Natha Singh and grand-father of the deceased are real brothers and, therefore, he is an interested witness and to overcome the same, he has deposed in Court that he has strained relationship with the informant, though he had not stated so in the statement recorded under Section 161 of Cr.PC.

24. The issue that emanates for appreciation is whether such confessional statement should be given any credence or thrown overboard. In this context, we may refer with profit to the authority in *Gura Singh v. State of Rajasthan*¹² wherein, after referring to the decisions in *Rao Shiv Bahadur Singh v. State of Vindhya Pradesh*¹³, *Maghar Singh v. State of Punjab*¹⁴, *Narayan Siingh V. State of M.P.*¹⁵, *Kishore Chand*

12. (2001) 2 SCC 205.

13. AIR 1954 SC 322.

14. AIR 1975 SC 1320

15. AIR 1985 SC 1678.

A *v. State of H.P.*¹⁶ and *Baldev Raj v. State of Haryana*¹⁷, it has been opined that it is the settled position of law that extra judicial confession, if true and voluntary, can be relied upon by the court to convict the accused for the commission of the crime alleged. Despite inherent weakness of extra-judicial confession
 B as an item of evidence, it cannot be ignored when shown that such confession was made before a person who has no reason to state falsely and his evidence is credible. The evidence in the form of extra-judicial confession made by the accused before the witness cannot be always termed to be tainted
 C evidence. Corroboration of such evidence is required only by way of abundant caution. If the court believes the witness before whom the confession is made and is satisfied that it was true and voluntarily made, then the conviction can be founded on such evidence alone. The aspects which have to be taken care
 D of are the nature of the circumstances, the time when the confession is made and the credibility of the witnesses who speak for such a confession. That apart, before relying on the confession, the court has to be satisfied that it is voluntary and it is not the result of inducement, threat or promise as envisaged
 E under Section 24 of the Act or brought about in suspicious circumstances to circumvent Sections 25 and 26.

25. Recently, in *Sahadevan & Another v. State of Tamil Nadu*¹⁸, after referring to the rulings in *Sk. Yusuf v. State of W.B.*¹⁹ and *Pancho v. State of Haryana*²⁰, a two-Judge Bench
 F has laid down that the extra-judicial confession is a weak evidence by itself and it has to be examined by the court with greater care and caution; that it should be made voluntarily and should be truthful; that it should inspire confidence; that an extra-judicial confession attains greater credibility and evidentiary
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16. AIR 1990 SC 2140.

17. AIR 1991 SC 37.

18. 2012 AIR SCW 3206.

19. (2011) 11 SCC 754.

H 20. (2011) 10 SCC 165 : AIR 2012 SC 523.

value if it is supported by a chain of cogent circumstances and is further corroborated by other prosecution evidence; that for an extra-judicial confession to be the basis of conviction, it should not suffer from any material discrepancies and inherent improbabilities; and that such statement essentially has to be proved like any other fact and in accordance with law.

26. Keeping in view the aforesaid parameters, the criticism advanced against the evidence of Natha Singh, PW-14, and acceptance thereof have to be appreciated. There is no dispute that the confession was made before Natha Singh after 18 days. The fact remains that Natha Singh was not in the village and three days after his arrival in the village, the confession was made before him. He has clearly deposed that Jagsir Singh and Roop Singh alias Jagroop Singh had confessed before him. The appellant Jagroop Singh had confessed about the crime and he had produced them before the ASI. True it is, he has improved his version in the cross-examination that he has strained relationship with the complainant which he had not stated in his statement under Section 161 Cr.P.C but the same cannot make the testimony tainted. Barring that, there is nothing in the cross-examination to discredit his testimony. That apart, there is no suggestion that he had not produced the appellant before the police. There may be some relationship between the informant and this witness but the evidence is totally clear and the confessional statement is voluntary and, in no way, appears to be induced and gets further strengthened by the fact that he produced them before the police. There is no suggestion whatsoever that he had applied any kind of force. It is borne out from that record that Bikkar Singh, another accused, had absconded and the present appellant along with Jagsir Singh came to Natha Singh and confessed and Bikkar Singh confessed before Gurdev Singh, PW-10. In the confessional statement, he has stated about the place where the spade was hidden and led to the recovery to which Natha Singh is a witness. Appreciated from these angles, we are of the considered opinion that the said

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A confessional statement inspires confidence as the same is totally voluntary and by no means tainted.

27. The next circumstance is leading to recovery of the weapon as is seen from the evidence. The accused led to recovery of the spade from the wheat field near the heap of sticks. The disclosure statement has been signed by Natha Singh and another witness, namely, Lal Chand. The procedure followed for discovery is absolutely in accord with law and has not been challenged. The learned counsel for the appellant has submitted that the recovery of the weapon does not aid and assist the prosecution version. It is urged that though human blood is found on the spade, yet the blood group was not matched. In support of the said stand, he has commended us to the decision in *Sattatiya Alias Satish Rajanna Kartalla v. State of Maharashtra*²¹. In the said case, the occurrence had taken place on 1.10.1994 and the accused was arrested on 3.10.1994. He had led to recovery of his blood stained clothes and that of the deceased and the weapon used in the crime and all the articles were sent for chemical examination. The clothes of the deceased were found having human blood of 'O' group. It was contended that the blood group was not matched. This Court did not believe the recovery of the weapon due to various reasons. Further, it opined that though blood stains were found on the clothes and the weapon used, yet the same could not be linked with the blood of the deceased, and, therefore, there was serious lacuna that the human blood stains present on the clothes of the accused and the weapon were sufficient to link the accused with the murder.

28. In the case at hand, the accused persons were arrested after 18 days and recovery was made at that time. The blood stain found on the weapon has been found in the serological report as human blood. In the case of *Sattatiya* (supra), the recovery was doubted and additionally, non-matching of blood group was treated to be a lacuna. It is worth noting that the

H ²¹. (2008) 3 SCC 210.

clothes and the weapon were sent immediately for chemical examination. Here the weapon was sent after 18 days as the recovery was made after that period. The accused have not given explanation how human blood could be found on the spade used for agriculture which was recovered at their instance. In this context, we may profitably reproduce a passage from *John Pandian v. State Represented by Inspector of Police, Tamil Nadu*²² :-

"The discovery appears to be credible. It has been accepted by both the courts below and we find no reason to discard it. This is apart from the fact that this weapon was sent to the forensic science laboratory (FSL) and it has been found stained with human blood. Though the blood group could not be ascertained, as the results were inconclusive, the accused had to give some explanation as to how the human blood came on this weapon. He gave none. This discovery would very positively further the prosecution case."

29. Thus viewed, we do not find any substantial reason to disbelieve the disclosure statement and the recovery of the weapon used. It is apt to mention here that the doctor, who has conducted the post mortem, has clearly opined that the injuries on the person of the deceased could be caused by the weapon (blade of such spade) and the said opinion has gone unrebutted.

30. Another aspect is to be taken note of. Though the incriminating circumstances which point to the guilt of the accused had been put to the accused, yet he could not give any explanation under Section 313 of the Code of Criminal Procedure except choosing the mode of denial. In *State of Maharashtra v. Suresh*²³, it has been held that when the attention of the accused is drawn to such circumstances that

22. (2010) 14 SCC 129.

23. (2000) 1 SCC 471.

A inculpated him in the crime and he fails to offer appropriate explanation or gives a false answer, the same can be counted as providing a missing link for completing the chain of circumstances. We may hasten to add that we have referred to the said decision only to highlight that the accused has not given any explanation whatsoever as regards the circumstances put to him under Section 313 of the Code of Criminal Procedure.

31. From the aforesaid analysis, we are of the convinced opinion that all the three circumstances which have been established by the prosecution complete the chain. There can be no trace of doubt that the circumstances have been proven beyond reasonable doubt. It is worthy to remember that in *Sucha Singh and another v. State of Punjab*²⁴, it has been stated that the prosecution is not required to meet any and every hypothesis put forward by the accused. A reasonable doubt is not an imaginary, trivial or merely possible doubt, but a fair doubt based upon reason and common sense. It must grow out of the evidence in the case. If a case is proved perfectly, it is argued that it is artificial; if a case has some inevitable flaws because human beings are prone to err, it is argued that it is too imperfect. The present case is one where there is no trace of doubt that all circumstances complete the chain and singularly lead to the guilt of the accused persons.

32. In view of the aforesaid premised reasons, we do not find any infirmity in the judgment of conviction and order of sentence recorded by the learned trial Judge which has been affirmed by the High Court and, accordingly, the appeal, being devoid of substance, stands dismissed.

G B.B.B. Appeal dismissed.

H ²⁴. (2003) 7 SCC 643.