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RANDEEP SINGH @ RANA & ANR. V. STATE OF HARYANA & ORS.¹

AUTHORED BY - SHREELAKSHMI BHAT P

CITATION	2024 INSC 887
DATE OF JUDGMENT	November 22, 2024
NATURE	Criminal Appeal
COURT	Honorable Supreme Court of India
JUDGES	Abhay S Oka, Ahsanuddin Amanullah, Augustine George Masih.
COUNSELS	Mr. Vinay Navare (Appellants)
FINAL DECISION	Appeal allowed

INTRODUCTION

This is a criminal case that re-establishes the most common, but very important principles to be followed in the Criminal Procedure. The case of the Prosecution focused on the abduction and murder of the deceased, while the case of the Appellants centered on the lack of evidence. This case is an appeal made by the accused against the judgment of the High Court after the conviction given by the Sessions Court was confirmed. The judgment of this case depicts the importance of following the established standards of evidence in criminal trials and the protection of the rights of the Accused.

FACTS

1. On 8th July 2013, the deceased Gurpal Singh left his house in his Ford Fiesta car to meet his sister- Paramjeet Kaur. When the deceased was returning to his house, a few unknown persons traveling in a white car stopped the car of the deceased and abducted him, put him in the car of the Accused, and took away the car of the deceased.
2. Jagpreet Singh, son of Gurpal Singh filed an FIR when he failed to locate his father. On 9th July 2013, the torso with other body parts of the deceased was recovered from

¹ Randeep Singh @ Rana and Anr. v. State of Haryana and Others. 2024 INSC 887
https://api.sci.gov.in/supremecourt/2023/51279/51279_2023_5_1502_57415_Judgement_22-Nov-2024.pdf

a canal.

3. **Testimony of the eyewitness (sister of the deceased):** On 8th July 2013 at about 06:45 pm, the deceased had come to her house, left at 07:15 pm and she went to see him off. Her brother had parked his car in the open plot in front of her house. The deceased sat in his car and left, and she and her husband went towards that side. A white Maruti car chased the deceased and stopped in front of his car. Seven to eight boys came out of that Maruti car and cordoned off the car of the deceased. She walked in that direction, heard cries from her brother for help. These boys forcibly threw her brother in the car; some boys sat in her brother's car and ran away.
4. The Appellants faced charges for offenses related to Sections 364 (kidnapping), 302 (murder), 201 (causing disappearance of evidence), 212 (harboring an offender), and 120-B (criminal conspiracy) of the Indian Penal Code (IPC).
5. The Sessions Court convicted all eight accused, including the Appellants, sentencing them to life imprisonment for offenses under Sections 364, 302, and 120-B IPC, and three years rigorous imprisonment under Section 201 IPC.
6. Upon appeal, the High Court acquitted the other accused but upheld the convictions of Randeep Singh and the other Appellant, who have approached the Supreme Court with this appeal.

ISSUES

- 1) Whether the testimony of the eyewitness (sister of the deceased) is credible under the circumstances?
- 2) What is the evidentiary value of the CCTV Footage without a certificate under *Section 65B* of the Indian Evidence Act, 1872?
- 3) Whether the chain of evidence that needs to be established in a case relying on circumstantial evidence is proved by the Prosecution?
- 4) Whether there has been any oversight in the investigation process and the process in which evidence was collected?
- 5) Does the confession of the accused in police custody have evidentiary value?

CONTENTIONS FROM THE SIDE OF THE APPELLANT

- **The discrepancy in the CCTV evidence:** The Prosecution relied on CCTV Evidence procured from a Bank near which the offence was allegedly committed. The Appellant

argued that the testimony of the Senior Bank Manager and the CCTV Engineer does not prove that the CD produced on record contained what is recorded in the CCTV cameras installed by the Bank, *in the absence of a certificate under Section 65B* of the Indian Evidence Act, 1872.

- **Omissions in the eyewitness testimony: The deceased's Sister** was the eyewitness, but the Appellants claim that her testimony cannot be relied upon as the material part of her evidence is an omission.
- **Lack of testimony from the brother-in-law of the deceased:** The husband of the primary witness, who was also stated to be an eyewitness has not testified.
- **Inadmissibility of confessions in custody:** The Appellant argued that his confession of guilt in custody has been highlighted and used by the Trial Court in his conviction.

CONTENTIONS FROM THE SIDE OF THE RESPONDENT

- **Testimony of the Sister of the deceased is valid:** The State of Haryana submitted that the sister was a natural eye-witness, she had identified the Accused in the court, and there was no reason to discredit her testimony.
- **Value of CCTV evidence as circumstantial evidence:** The CCTV footage proves the complicity of the accused.
- **Brutal nature of the offence to be noted:** Since this case involves a very gruesome offence, the concurrent convictions by the lower courts should be upheld.

RELEVANT PROVISIONS OF THE EVIDENCE LAW

Section 25²: No confession made to a police officer shall be proved as against a person accused of any offence.

Section 26³: No confession made by any person while he is in the custody of a police officer is admissible unless there is the immediate presence of a Magistrate.

Section 27⁴: When a fact is discovered after receiving information from an accused in police custody, only the portion of the statement that relates to the fact discovered is admissible.

Section 65B⁵: Admissibility of electronic records as evidence requires that the electronic records must be accompanied by a certificate of authenticity that is issued by a person in control

² Section 23(1) of the Bharatiya Sakshya Adhiniyam, 2023.

³ Section 23(2) of the Bharatiya Sakshya Adhiniyam, 2023

⁴ Proviso to Section 23 of the Bharatiya Sakshya Adhiniyam, 2023.

⁵ Section 63 of the Bharatiya Sakshya Adhiniyam, 2023

of the electronic device, and is stating the manner of production and details to confirm integrity.

RATIONALE

Gaps in the testimony of Prosecution eyewitness: There was a difference in the statement given to the police and the testimony given in the court. The material part of the testimony of the sister of the deceased, who is the primary and only eyewitness contains a *lot of omissions* and cannot be admitted. The other eyewitness was the husband of the sister, and according to the statement of his wife he had accompanied his wife to the police station, but she claimed that she was not aware whether a statement was taken from her husband. An adverse inference was drawn by the Court against the Prosecution for withholding evidence of an eyewitness.

Significant omissions in the testimony of the eyewitness: The evidence given by her was held to be unreliable. The stark *difference in the statements* given to the police and in the Court was noted, and the Court held that these omissions amount to contradictions, and this testimony should be kept out of consideration.

Failure of the Prosecution to examine other witnesses: The husband of the sister of the deceased was allegedly an eyewitness as well, but his statement was never produced. The Court drew an *adverse inference* for this withholding of evidence. **Since there is no admissible evidence from the eyewitnesses, this case depends on circumstantial evidence.**

CCTV evidence was held to be inadmissible: The CCTV footage was produced by the Bank Manager, and an engineer employed by the bank; however, *neither* of them had *verified* the footage to confirm its authenticity, and both admitted that it could have been tampered with. Furthermore, the *absence of the certificate required under Section 65B* of the Indian Evidence Act, of 1872, broke the chain of circumstantial evidence and rendered the evidence inadmissible.

Guilt not established beyond a reasonable doubt: In cases relying on circumstantial evidence, failure to establish even one circumstance breaks the chain of evidence. The Honorable Supreme Court referred to the decision made in *Sharad Birdhichand Sarda v. State of Maharashtra*, a landmark precedent for cases that rely on circumstantial evidence, and noted the five facts that need to be established in cases like these-

1. The circumstances from which the conclusion of guilt is to be drawn *should* be fully

established, with emphasis on “should”.

2. The facts so established should be consistent *only with the hypothesis* of the guilt of the accused.
3. The circumstances should be *conclusive*.
4. They should exclude every possible hypothesis except the one to be proved.
5. There must be a *chain of evidence so complete* as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused.

Violation of Sections 25 and 26 of the Indian Evidence Act by the Trial Judge:

Confessions made in custody were admitted. The Supreme Court highlighted this as a grave oversight.

Evidence recovered by the statement of the accused: Recovery of the body of the Accused was done with the information given by a 3rd party, and not at the instance of the Accused. The only evidence recovered by the statement of the Accused is the Maruti car used in the offence, the weapon used in the offence, and recovery of articles of the deceased such as a driving licence.

Evidence from the Investigation Officer is unreliable: The Court stated the inadmissibility of confessions of guilt made in police custody according to *Section 25 and Section 26* of the Indian Evidence Act. The evidence by the Investigation Officer highlights the statements by the Accused about his guilt, rather than focusing on the *discovery of facts*, as is the rule in Section 27 of the Indian Evidence Act, of 1872.

The brutality of the offence does not dispense with the legal requirement of proof beyond a reasonable doubt: The Court relied upon the case of *Subhash Chand v. State of Rajasthan*⁶ and said that Though the offence is gruesome and revolts the human conscience but an accused can be convicted *only on legal evidence* and if only a chain of circumstantial evidence has been so forged as to rule out the possibility of any other reasonable hypothesis excepting the guilt of the accused.

The Supreme Court held that: The Prosecution has *failed to establish the case beyond a reasonable doubt*. The appeal was allowed, and the *accused were acquitted*.

⁶ Subhash Chand vs State Of Rajasthan, 2002 (1) SCC 702

DEFECTS OF LAW

Defects by the Prosecution and in the Investigation Procedure:

1. Mistake in the collection of CCTV evidence- no label or marking, no instructions to check the footage.
2. A certificate under Section 65B was not obtained, making the digital evidence inadmissible.
3. Body recovered from the information of a third party, and not front the confession of the Accused.
4. Incorrect application of Section 27 by highlighting confessions and not discoveries.
5. Lack of taking testimony from brother-in-law.

Defects by the Trial Judge: The learned Trial Judge has ignored Sections 25 and 26 of the Evidence Act and has allowed the Prosecution to prove the confessions allegedly made by the Accused while they were in police custody.

Defects of the Counsel for the Appellant: The deficiencies in the evidence should have been uncovered in the trial stage, or at the High Court.

Defects of the eyewitness: There is a need for the common man to give truthful and complete testimony to the police, and not mislead the court.

INFERENCE

This case underscores the critical need for a clear and unbroken chain of events when a conviction relies on circumstantial evidence. The importance of discovering and recording the statements from all relevant individuals in every case, particularly eyewitnesses is understood by this case, as such testimonies form the backbone of the case. An astonishing amount of accused are acquitted due to lack of evidence in India, hence there is a need for the Prosecution to work more diligently to meet the burden of proof. In this particular case, we can see that most discrepancies in this case are due to a lack of diligence. The rules regarding inadmissibility of confessions in police custody have been established for decades, but even today we see Courts not following the procedure for investigation, which violates the fundamental right against self-incrimination along with the Evidence Law.