

SURENDRA KOLI

v.

STATE OF U.P. AND ORS.
(Criminal Appeal No.2227 of 2010)

FEBRUARY 15, 2011

[MARKANDEY KATJU AND GYAN SUDHA MISRA, JJ.]

Penal Code, 1860 :

s.302 – Gruesome murder – Accused charged for murdering young girls and several other children – Allegation that accused used to lure young children inside the house where he would strangle them and cut off their body parts and eat them – Conviction by courts below u/s. 302 and award of death sentence – Held: The accused had made a voluntary confession before the Magistrate u/s.164 Cr.P.C. – The confession u/s.164 was corroborated in material particulars – The accused volunteered to lead the police team to the specific spot where he had hidden the articles/body parts – On his pointing out, 15 skulls and bones were recovered and also a knife was recovered from a water tank – Some body parts, clothes and slippers thrown in the enclosed gallery behind the house were also recovered – DNA test of victim matched with that of her parents and brother – The entire chain of circumstances connected the accused with the crime and was established by the prosecution beyond reasonable doubt – The killings by the accused were horrifying and barbaric – Case fell within the category of rarest of rare case – Conviction and death sentence upheld.

Bachan Singh vs. State of Punjab, 1982 SCC 689; Atbir vs. Government of NCT of Delhi, 2010 SCC (9) 1– relied on

A Case Law Reference:

1982 SCC 689 Relied on Para 14

2010 SCC (9) 1 Relied on Para 14

**B CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
No. 2227 of 2010.**

From the Judgment & Order dated 11.9.2009 of the High Court of Uttar Pradesh, judicature at Allahabad in Criminal (Capital) Appeal No. 1475 of 2009 & R. No. 3 of 2009.

C WITH

SLP (Crl.) No. 608 of 2010.

**D Vivek K. Thanka, ASG, Ratnakar Dash, Shail Kr. Dwivedi,
AAG, Dr. Sushil Balwada, AC, T.A. Khan, Pratul Shandilya,
Sumeer Sodhi, Vaibhav Srivastava, Kumnan D., Arvind Kumar
Sharma, Harsh, B.P. Singh Dhakray, Shakti Singh Dhakray,
D.B. Vohra, Rajeev K. Dubay, Kamendra Mishra, Manisha
Bhadari, Omkar Shrivastava (for Madhu Moolchandani) for the
E appearing parties.**

The following order of the Court was delivered

ORDER

**F 1. Heard Dr. Sushil Balwada, learned counsel, who has
appeared for the appellant Surendra Koli in Criminal Appeal
No. 2227 of 2010.**

**G 2. The appellant Surendra Koli, accused no. 2 and
Maninder Singh Pandher accused no. 1 were convicted under
Section 302/364/376 IPC by the Special Sessions trial no. 611
of 2007 decided on 13.02.2009 by Additional Sessions Judge,
Ghaziabad, U.P. By that judgment death sentence was
imposed on both these accused.**

H

3. In Appeal/Reference to the High Court accused Surendra Koli's death sentence was affirmed while the accused Maninder Singh Pandher was acquitted. Hence, Surendra Koli has filed this Appeal before us. A

4. The facts of this case are gruesome and horrifying. It seems that several children had gone missing over 2 years from Sector 31, Nithari Village, Gautam Budh Nagar, Noida from 2005 onwards. Several of such children were alleged to have been killed by the appellant who is also alleged to have chopped and eaten the body parts after cooking them. Appellant Surendra Koli was the servant of accused no. 1 Moninder Singh, and they lived together at D-5, Sector 31, Noida. B C

5. The High Court in the impugned judgment dated 11.09.2009 has discussed the evidence in great detail and we have carefully perused the same. It is not necessary therefore to again repeat all the facts which have been set out in the judgment of the High Court except where necessary. We entirely agree with the findings, conclusion and sentence of the High Court so far as accused Surendra Koli is concerned. D E

6. Admittedly, there was a confession made by Surendra Koli before the Magistrate under Section 164 Cr.PC on 01.03.2007 and we are satisfied that it was a voluntary confession. The Magistrate repeatedly told the accused Surendra Koli that he was not bound to make the statement and it can be read against him. In our opinion the provisions of Section 164 CrPC have been fully complied with while recording the said statement. F

7. In the aforesaid statement before the Magistrate appellant Surendra Koli has admitted in great detail how he used to kill the girls after luring them inside the House no. D-5, Sector 31, Noida by strangulating them, and he would then chop up and eat up their body parts after cooking them. Some body parts, clothes and slippers were thrown in the enclosed gallery G H

A behind the house at D-5, Sector 31, Noida. He volunteered to lead the police team to the specific spot where he had kept the articles/body parts hidden. The police party reached that spot along with the appellant. On his pointing out, 15 skulls and bones were recovered, and also a knife was recovered from a water tank of a bath room in D-5, Sector 31. On 31.12.2006 during the scooping of the drain in front of D-5, bones and chappals were recovered.

C 8. He has given graphic description about the several murders he has committed. Surendra Koli was the servant of co-accused Maninder Singh Pandher as has been admitted by him. The confession under Section 164 has been corroborated in material particulars. The body parts of the killed girls have been found in the gallery behind the house and in the Nala beside the house.

D 9. Weapons like knife have also been recovered. The girls clothes have also been identified.

E 10. Two girls PW-27 namely Pratibha and PW-28 namely Purnima have stated before the trial Court that they were also attempted to be lured inside the House D-5 by Surendra Koli but they refused to enter the house. This was their sheer good luck, for if they would have entered the house then they might have met the same fate. Their evidence indicates the modus operandi of the appellant.

F 11. The parents of one Rimpa Haldar had filed a missing report at the police station on 20.07.2005 stating that their daughter Rimpa aged about 15 years had gone to do menial work in Sector 20 on 08.02.2005 but had not returned. Smt Doli Haldar came to know that in D-5, Sector 31 human skeleton and clothes had been found. Hence she went there and identified the chunni and bra of her daughter.

H 12. The appellant was charged for the murder of Rimpa (amongst others), and was found guilty by both the trial Court and High Court. Although it is a case of circumstantial evidence

we are of the opinion that the entire chain of circumstances connecting the accused Surendra Koli with the crime has been established by the prosecution beyond reasonable doubt.

13. The DNA test of Rimpa by CDFD, a pioneer institute in Hyderabad matched with that of blood of her parents and brother. The Doctors at AIIMS have put the parts of the deceased girls which have been recovered by the Doctors of AIIMS together. These bodies have been recovered in the presence of the Doctors of AIIMS at the pointing out by the accused Surendra Koli. Thus, recovery is admissible under Section 27 of the Evidence Act.

14. On the facts of the case we see no reason to interfere with the findings of the trial court and the High Court that the appellant Surendra Koli is guilty of murdering Rimpa Haldar. Both Courts have gone into the evidence in great detail and we have perused the same. The appellant appears to be a serial killer, and these cases in our opinion fall within the category of rarest of the rare cases as laid down in *Bachan singh Vs State of Punjab*, 1982 SCC 689 which has been subsequently followed in *Atbir Vs Government of NCT of Delhi*, 2010 SCC (9) 1.

15. The killings by the appellant Surendra Koli are horrifying and barbaric. He used a definite methodology in committing these murders. He would see small girls passing by the house, and taking advantage of their weakness lure them inside the house no. D-5, Sector 31, Nithari Village, Noida and there he would strangulate them and after killing them he tried to have sex with the body and would then cut off their body parts and eat them. Some parts of the body were disposed off by throwing them in the passage gallery and drain (nala) beside the house. House no. D-5, Sector 31 had become a virtual slaughter house, where innocent children were regularly butchered.

16. In our opinion, this case clearly falls within the category

A of rarest of rare case and no mercy can be shown to the appellant Surendra Koli.

17. The appeal is, therefore, dismissed.

SPECIAL LEAVE PETITION (CRL.) 608 of 2010

B 18. Leave granted.

D.G.

Appeal dismissed.