



2026 INSC 1028

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal No(s). 67/2018

THE STATE OF HIMACHAL PRADESH

Appellant(s)

VERSUS

VARINDER VERMA@JATTI & ANR.

Respondent(s)

O R D E R

1. We have heard learned Counsel for the parties and have perused the record.
2. This appeal impugns the judgment and order of the High Court of Himachal Pradesh at Shimla¹ dated 06.04.2015 by which the High Court allowed the appeal and acquitted the first and second respondents, namely, Varinder Verma and Dev Raj, who were convicted by the Court of Session under Sections 302/34 of the Indian Penal Code, 1860² and sentenced to imprisonment for life.
3. A First Information Report (for short 'FIR') was

¹ The High Court

² IPC

lodged by PW1 (Kuldeep Verma), son of Om Prakash, one of the two deceased, against unknown persons at 04.45 hours on 07.06.2009, disclosing the date and time of occurrence as 06.06.2009 at about 10.30 pm. It is stated in the FIR that informant's father (Om Prakash) had gone to Theog and had to return to his house at Gadah. Informant had also gone to Theog but he returned earlier. Informant's father, though had arrived at the Bus Stop, had not reached home. When contacted, at about 9.22 pm, informant's father told PW-1 that he would reach home in 15-20 minutes, and that Ganga Ram, the other deceased, was with him. However, when informant's father did not return and could not be contacted on his mobile, the informant (PW1) along with one Mukesh Verma (not examined) went to look for them. At about 10.30 pm, during search, near Gadah Kufri, their dead bodies were found by the roadside, and near those bodies there were blood stained small wooden pieces lying scattered. In the FIR, neither any one was named as an accused nor suspicion was expressed against any person.

4. According to the prosecution, after recording of statement of PW-3 on 07.06.2009, the accused were

arrested and they suffered a disclosure statement. Later, at their instance, on 10.06.2009 their blood stained clothes, worn by them on the day of crime, and Dandas, used in crime, were recovered.

5. The trial court convicted the accused by taking into consideration the following circumstances:

(i) The two accused, according to PW-2, had noticed the deceased having liquor with others; and later, when after taking liquor the two deceased had left the place where they were having liquor, the accused, carrying Dandas, came and inquired from PW-3 as to where the two deceased had gone, shortly thereafter, the bodies of the two deceased were found with homicidal injuries;

(ii) At the instance of the accused Dandas and blood stained clothes were recovered. The blood-stained clothes carried same blood group as were of the deceased; and

(iii) Ganga Ram, one of the two deceased, was turned out of his house by father of Varinder Verma, one of the accused, and since thereafter he had been staying with Om Prakash, the other deceased, therefore, there was enmity, and motive for the crime.

6. The High Court on an appeal by the convicted accused, after considering the evidence on record noticed that the forensic examination of the two deceased had revealed that they had consumed alcohol in large quantity and, therefore, possibility of injuries being suffered on account of a fall or on account of a brawl cannot be ruled out. The High Court found the circumstance of recovery of Dandas from pond not trustworthy because, firstly, normally, the wood would float in water whereas PW-8, the witness of recovery, stated it was taken out from the pond after the accused, one after the other, waded into the pond to retrieve Danda from the depths of the Pond; and, secondly, PW-8, the witness of recovery, had a motive to falsely implicate the accused as accused Varinder Verma's father had filed a case against his son

Rajesh. Insofar as the recoveries of blood stained clothes were concerned, the High Court observed that though the forensic report indicated that blood found on the clothes matched with the blood group of the deceased, the investigation did not obtain the blood sample of the accused to rule out possibility of the accused having the same blood group. Besides, in the absence of DNA profiling of the blood, there may be several persons having the same blood group and as such the circumstance did not conclusively establish that the blood stain found on clothes are of the deceased.

7. Based on the above analysis as also that there was no eyewitness of the murder which occurred at night, the High Court concluded that the accused were entitled to the benefit of doubt.
8. Assailing the judgment of the High Court, the learned counsel for the appellant submitted that the evidence led by the prosecution indicated that the accused were seen by PW-2 spotting the two deceased having liquor, and thereafter, they came with Dandas and inquired from PW-3 as to in which direction the two deceased had gone; and soon thereafter, the two

deceased were found dead with injuries referable to hard and blunt object such as wood/ Danda. Besides, the recovery of Dandas and blood-stained clothes confirmed that the accused and no one else committed the crime. Moreover, they had motive for the crime. In such circumstances, the chain of circumstances was complete pointing conclusively that in all human probability the accused and no one else were guilty.

9. *Per contra*, on behalf of the respondents, it has been submitted that the view taken by the High Court in providing benefit of doubt to the accused cannot be faulted as the evidence against the accused is sketchy and does not rule out hypothesis consistent with the innocence of the accused.
10. We have accorded due consideration to the rival contentions and have perused the materials / evidence available on the record.
11. In a case based on circumstantial evidence, to sustain a conviction, firstly, the incriminating circumstances would have to be proved beyond reasonable doubt; secondly, all the circumstances so established should be consistent only with the hypothesis of the guilt of the accused; besides, the

circumstances should be of a conclusive nature and tendency; and, thirdly, they must constitute a chain so far complete that it excludes every hypothesis except the one proposed to be proved. In other words, there must be a chain of circumstances so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been committed by the accused.

12. In the present case, what is clear from the evidence is that the occurrence is of night, near or by the side of a public road. There is no eyewitness to the murder. Both deceased were found dead lying by the roadside with head injuries etc.; and shattered pieces of wood were lying near their bodies. The forensic evidence had confirmed that they were drunk. In such circumstances, possibility of there being a brawl cannot be ruled out. Besides, no one saw them in the company of the accused.

13. PW-2 is a witness who speaks about noticing the accused at the place where he was having liquor with the two deceased. Whether he could spot the accused

in the darkness is a big question. Besides, PW-2 does not state that the two accused were carrying Danda. Most importantly, PW-2 does not state that the accused stopped there and spoke to the two deceased or to PW-2. In such circumstances, his evidence, firstly, does not inspire confidence and, secondly, is inconclusive.

14. In so far as PW-3 is concerned, firstly, he is *Bhanja* (nephew) of the deceased and is, therefore, an interested witness; secondly, during cross-examination, more particularly on 18.08.2010, he stated that he had reached the spot in the night at about 12 midnight upon receiving a call from Kuldeep i.e., son of the deceased, and saw the bodies of the two deceased lying there. Interestingly, he admits that at that time even though Kuldeep (PW-1) i.e., the informant was there he did not inform PW-1 that the two accused carrying Dandas had inquired from him as to which way the two deceased had gone.

15. If PW-3 had been a witness of the said incriminating circumstance he would have, in all probability, informed the informant about it because he was a close relative of the deceased as well as PW-1 and,

therefore, would have been aware of the enmity between the accused and the two deceased. However, here, the FIR was registered against unknown person(s) without expressing any kind of suspicion against anyone.

16. In *Kali Ram v. State of H.P.*³, this Court observed: *"if a witness professes to know about a gravely incriminating circumstance against a person accused of the offence of murder and the witness keeps silent for over 2 months regarding the said incriminating circumstance against the accused, his statement relating to the incriminating circumstance, in the absence of any cogent reason, is bound to lose most of its value."*

17. No doubt, here the time-gap in making disclosure about the incriminating circumstance is not two months as in *Kali Ram's* case (*supra*), but each case must be decided in the context of its own facts, and inferences from proven facts must be drawn accordingly.

18. Here, enmity is proved, the witness (PW-3) reaches the scene of crime within two hours upon receiving

³ (1973) 2 SCC 808, paragraph 14

call from PW-1 and notices dead bodies lying with injuries and wooden pieces scattered around, yet he fails to disclose the incriminating circumstance of the accused armed with Dandas looking for the two deceased, which had occurred just a couple of hours before, to his cousin on whose call he had rushed to the spot. This creates a serious doubt about the credibility of his testimony.

19. What is even more interesting is that the police record the statement of PW-3 in the morning of 07.06.2009 and arrest the two accused immediately thereafter, the same day. If the incriminating circumstance disclosed by PW-3 was so grave as to justify immediate arrest, why it was not disclosed by PW-3 at the first opportunity. This creates a serious doubt about the prosecution case being contrived on mere suspicion.

20. The recoveries including other incriminating circumstances appearing against the accused, and relied by the prosecution, were denied by the accused in their statements under Section 313 of the Code of Criminal Procedure, 1973. Importantly, though the accused were arrested on 07.06.2009, those

recoveries, namely, of clothes and Dandas, are of 10.06.2009. This aggravates our doubt about the prosecution case being contrived more particularly when you take into consideration the nature of evidence led by the prosecution to prove those recoveries. The evidence is that both the accused were taken to their respective houses by the police on the same day i.e., 10.06.2009. One went in and retrieved blood-stained clothes from his house and thereafter the other was taken to his house, he went in and retrieved his clothes. Interestingly, the witness of clothes recovery is PW-3, an interested witness i.e., nephew of one of the two deceased. The other witness of seizure of those clothes was not examined. Likewise, two Dandas were recovered from the pond by the two accused, each entering the pond, one after the other. Witness of this recovery is PW-8 against whose son the accused Varinder Verma's father had lodged a report. Here also, the other witness of seizure memorandum was not examined. Such recoveries, made after three days of arrest, appear stage-managed and artificial. They do not inspire our confidence. Besides, once we find the testimony of PW-3

untrustworthy, nothing much remains in the prosecution case.

21. For the reasons aforesaid, we find no merit in this appeal. Consequently, the appeal is dismissed.

22. Pending application(s), if any, shall stand disposed of.

..... J
[MANOJ MISRA]

..... J
[VIJAY BISHNOI]

New Delhi;
September 17, 2026

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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THE STATE OF HIMACHAL PRADESH

Appellant(s)

VERSUS

VARINDER VERMA@JATTI & ANR.

Respondent(s)

Date : 17-09-2026 This appeal was called on for hearing today.

CORAM HON'BLE MR. JUSTICE MANOJ MISRA
 HON'BLE MR. JUSTICE VIJAY BISHNOI

For Appellant(s) Mr. Ketan Paul, AOR
 Mr. Tushar Bhushan, Adv.
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For Respondent(s) Mr. Rabin Majumder, AOR
 Mr. Shailendra Singh, Adv.
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Mr. P. N. Puri, AOR
Mr. Rahul Sharma, Adv.
Mrs. Reeta Dewan Puri, Adv.
Mr. Dhiraj, Adv.
Mr. Sudershan Goel, Adv.
Mr. Suresh Kumar Bhan, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The appeal is dismissed in terms of the signed Reportable order placed on the file.

2. Pending application(s), if any, shall stand disposed of.

(CHETAN ARORA)
ASTT. REGISTRAR-cum-PS

(SAPNA BANSAL)
COURT MASTER (NSH)