

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CRIMINAL) NO. 102 OF 2017

DARSHAN SINGH .. PETITIONER(S)

VERSUS

THE STATE OF PUNJAB .. RESPONDENT(S)

WITH

WRIT PETITION (CRIMINAL) NO. 151 OF 2017

WRIT PETITION (CRIMINAL) NO. 148 OF 2018

O R D E R

WP(CrI.) No. 102/2017

1. By this petition under Article 32 of the Constitution of India, the accused who has been convicted for life imprisonment under Section 302 IPC for the murder of Santa Singh, has sought the setting aside of the judgment and order of this court dismissing his appeal against the conviction. After such dismissal, the appellant filed a review petition which was dismissed on 03.05.2016. Thereafter, he filed a curative petition which was dismissed on 11.01.2017.

2. The occasion for filing this petition under Article 32 is the fact that a co-accused Surain Singh whose appeal was decided by this Court on 10.04.2017, was granted the benefit of the Exception-4 to Section 300 IPC. This Court held in Surain Singh's case (supra)

that the act was not premeditated and therefore the accused Surain Singh was entitled to the benefit of the said Exception to Section 300 IPC. Since the petitioner herein was convicted in the same incident, he seeks parity. We find that there are aspects of the case which do not support the application of the principle of parity to the two cases. In the first instance, the charge was not brought home under Section 34 IPC and the acts of the accused were treated as individual acts and not performed with a common intention. Apart from this, Surain Singh did not attack on a vital part and inflicted two injuries on the deceased Harbans Singh whereas the present accused Darshan Singh is said to have attacked on vital parts of deceased Santa Singh and has inflicted five injuries.

3. We do not wish to go into the merits of the matter in view of the observations of this Court in case of Rupa Ashok Hurra vs. Ashok Hurra & Ors. (2002) 4 SCC 388. In paragraph 15 of the said judgment this court observed as follows :

“In fairness to the learned counsel for the parties, we record that all of them at the close of the hearing of these cases conceded that the jurisdiction of this Court under Article 32 of the

Constitution cannot be invoked to challenge the validity of a final judgment/order passed by this Court after exhausting the remedy of review under Article 137 of the Constitution read with Order XL Rule 1 of the Supreme Court Rules, 1966."

4. We find that in the present case the appeal, review petition and the curative petition have all been dismissed and we are of the view that it would not be permissible to allow the petitioner to level a collateral attack on the judgment of this Court in his petition at this stage. We are therefore of the considered view that the present writ petition is liable to be dismissed and is dismissed accordingly.

W.P.(CRL. NO. 151 OF 2017
W.P.(CRL.) NO. 148 OF 2018

5. In view of the order passed in WP(Cr1.) No.102/2017, these petitions are also dismissed in the same terms and observations.

.....CJI.
[S.A. BOBDE]

.....J.
[SANJIV KHANNA]

.....J.
[SURYA KANT]

NEW DELHI,
NOVEMBER 26, 2019.

ITEM NO.3

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Criminal) No(s). 102/2017

DARSHAN SINGH

Petitioner(s)

VERSUS

THE STATE OF PUNJAB

Respondent(s)

(IA No. 50938/2017 - EX-PARTE BAIL)

WITH

W.P.(Cr1.) No. 151/2017 (X)

(IA No. 102236/2017 - EX-PARTE BAIL)

W.P.(Cr1.) No. 148/2018 (X)

(IA No. 84286/2018 - EX-PARTE BAIL)

Date : 26-11-2019 These matters were called on
for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s) Mr. Rishi Malhotra, AOR
Mr. Utkarsh Singh, Adv.
Mr. Rajat Roshan Sharma, Adv.

For Respondent(s) Ms. Uttara Babbar, AOR
Ms. Bhavana Duhoon, Adv.
Mr. Manan Bansal, Adv.

Mr. Jatinder Kumar Bhatia, AOR
Mr. Ashutosh Kumar Sharma, Adv.

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

W.P.(Cr1.) No. 102/2017

The writ petition is dismissed in terms of the
signed order.

Pending application stands disposed of.

W.P.(Cr1.) Nos. 151/2017, 148/2018

In view of the order passed in WP(cr1.) No. 102/2017, these petitions are also dismissed in the same terms and observations.

Pending applications stand disposed of.

[CHARANJEET KAUR]
A.R.-CUM-P.S.

[INDU KUMARI POKHRIYAL]
ASSTT. REGISTRAR

[Signed order is placed on the file]