

Pancho v. State of Haryana, (2011) 10 SCC 165

Penal Code, 1860

Ss. 302 and 392 - Murder with robbery - Conviction reversed - Appreciation of evidence - FIR lodged on 8-2-1999 that unknown persons caused death of K and that they had taken away his tractor - On 31-7-1999, A-1 approached PW 4 and made confession that he along with A-2, A-3 and others had snatched a tractor, shot driver and taken tractor with them and that tractor could not be sold - Different parts of tractor were recovered at instances of accused persons - Country-made pistol of .315 bore recovered from A-2 - FSL report indicated that deceased was shot dead by that weapon - Trial court sentenced A-2 to death under S. 302 IPC as he had fired upon deceased and A-1 and A-3 to life under S. 302 r/w S. 34 - High Court awarded life imprisonment to all accused - Evidence of extra-judicial confession regarding A-1 and co-accused found to be unreliable as unnatural - Recovery of parts of tractor at instances of accused was also found to be unreliable for delay - FSL report of country-made pistol also could not prove involvement of A-2 for want of link evidence, (2011) 10 SCC 165-A

Criminal Trial

Confession

Extra-judicial confession - Evidentiary value - Weak evidence - Courts look for corroboration from other evidence, whether there are other cogent circumstances on record to support it - Extra-judicial confession made by A-1 five months after incident to PW 4, ex-member of Panchayat at a distance of 35 to 40 km away from his village - No evidence available that A-1 and PW 4 knew each other intimately - A-1 denied before court that he made any such statement - Extra-judicial confession, held, not credible, (2011) 10 SCC 165-B

Criminal Trial

Confession

Extra-judicial confession of co-accused - An extremely weak basis - Proper mode and steps for relying upon confession - Confession not substantive evidence against a co-accused - Court cannot start with confession of a co-accused - It must begin with other evidence - If court has formed its opinion with regard to quality and effect of other evidence, then only is it permissible to turn to confession in order to receive assurance as to conclusion of guilt - A-2 is said to have shot deceased - Only evidence regarding the same i.e. belated discovery of certain articles at his instance, other than extra-judicial confession of a co-accused, A-1, found to be doubtful - Held, A-2 cannot be convicted on the basis of alleged extra-judicial confession of A-1, (2011) 10 SCC 165-C

Criminal Trial

Proof

Recoveries on discoveries made at instance of accused five months after incident - Parts of allegedly stolen tractor stated to have been discovered on different dates - Significantly PW 15, brother of deceased who was allegedly robbed of tractor and murdered therefor, was stated to be present when discoveries were effected and all articles identified by him - Articles are easily available in market - Belated discovery raises a question about its intrinsic evidentiary value - If accused wanted to sell parts of tractor, it is difficult to believe that they would preserve them for so long - Held, evidence relating to discovery of these articles must be rejected, (2011) 10 SCC 165-D

Criminal Trial

Injuries, Wounds and Weapons

FSL report - Link evidence - Absence of - Country-made pistol recovered from A-2 - According to FSL report, bullet taken out from body of deceased had been fired from said pistol - Recovery of pistol made more than six months after date of incident - Prosecution has not led any evidence to show as to in whose custody this pistol was during these six months - Held, on basis of FSL report, it is difficult to come to a conclusion that A-2 was responsible for firearm injury caused to deceased, (2011) 10 SCC 165-E

