

**AN EMPIRICAL CASE COMMENT: KEHAR SINGH AND ORS. VS. STATE
(DELHI ADMINISTRATION)**

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India has seen it all, from the untimely death of former prime minister Lal Bahadur Shastri to Indira Gandhi winning elections by huge margins to India being under a state of emergency, it has seen all! Indira Priyadarshini Gandhi was India's first and to date the only female Prime Minister, who served a long and controversial term as the leader of the biggest political party at that time: Indian National Congress. "Operation Bluestar" was one of the greatest controversies that happened during her tenure as Prime Minister which eventually became the major reason for her cold-blooded assassination by the very people who were hired to safeguard her. An armed operation was undertaken from between 1 to 10 June 1984 to remove the separatists from the premises of the holy Golden Temple. The military action was interpreted as an assault on the Sikh religion and their belief in the almighty. It raged sentiments of the Sikh community in due pursuance of which Indira Gandhi was assassinated by two of her Sikh bodyguards namely Beant Singh and Satwant Singh in conspiracy with Kehar Singh and Balbir Singh, the believed religious fanatics. This article aims to look for the technicalities of the case: Kehar Singh and Ors v State (Delhi Administration)¹ or simply the Indira Gandhi murder case from a legal point of view and would try to answer a few related questions critically.

Journal of Legal Research and Juridical Sciences

FACTS OF THE CASE

Smt. Indira Gandhi resided in a bungalow in New Delhi at No. 1, Safdarjung Road. Her Office was at No. 1, Akbar Road. Both places were in close proximity to each other. The two bungalows were joined together by a cemented road of about 8 ft. creating a premise that connected both her house and her office. It was separated by a Sentry gate. These were referred to as the TMC Gate and a sentry booth respectively.

Indira Gandhi was gone on a tour to Orissa and returned to New Delhi on the night of 30th October 1984. On 31st October, 1984 Smt. Gandhi proceeded towards the office for an interview with the Irish television team using the same cemented path. Near the TMC Gate about 10 or 11 ft. away, Smt. Indira Gandhi was shot unmethodically and unstoppably by Beant

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¹ Kehar Singh and Ors v. State (Delhi Administration) [1998] MANU/SC/0241/1988

Singh and Satwant Singh who reportedly exchanged their positions of deployment with other on-duty officials for carrying out the conspiracy.

She was then from thereon taken and admitted under the highly efficient medical care of medics at the All-India Institute of Medical Sciences or AIIMS in short. But to no avail. Smt. Indira Gandhi succumbed to her injuries and was declared dead on 31 October 1984. The government decided to constitute a Special Investigation Team (SIT) to investigate the death of the then-prime minister.

The first information report (FIR) for a cognizable offence punishable under Sections 307, 120B Indian Penal Code² and Sections 25, 27, 54 & 59 of the Arms Act³ was registered at the Police Station based on the statement of Narain Singh, an eye witness. Upon receiving the news about the death of Smt. Indira Gandhi, the offence in the FIR was converted from Section 307⁴ to Section 302⁵ and the investigation proceeded ahead with the same.

Kehar Singh was the uncle (Phoopa) of Beant Singh. He was also taken under custody for the charges of criminal conspiracy along with the other 3. Balbir Singh, one of the Sub-Inspector posted for the security of Smt. Gandhi was also arrested on 3.12.1984 for possessing incriminating material found when searched. Beant Singh was declared dead due to the injuries he had suffered in the skirmish that had taken place. Since he had died, the charges against him were said to have been dropped. In total 4 people were arrested out of which one died leaving 3 i.e. Satwant Singh, Balbir Singh and Kehar Singh to be tried for the assassination of Late Prime Minister, Smt. Indira Gandhi.

LEGAL ISSUES BEFORE THE COURT

1. Whether Tihar Jail as the venue of the hearing was righteous or not.
2. Whether the trial being held in Tihar Jail was against the provisions of Article 21⁶ in light of the Constitution of India.
3. Whether abstaining the accused from accessing reports prepared by the Thakkar Commission (inquiry commission) has deprived them of substantial material which could be used for their defence or not.

² Indian Penal Code 1860

³ Arms Act 1959

⁴ Indian Penal Code 1860, s 307

⁵ Indian Penal Code 1860, s 302

⁶ The Constitution of India 1949, art 21

ACCUSATIONS AS MENTIONED IN THE CHARGESHEET

Section 302, Indian Penal Code⁷: This section prescribes the punishment for the crime of murder which is supposed to be ranging from fine to life imprisonment to death penalty as well.

Section 120B, Indian Penal Code⁸: This section prescribes the punishment of criminal conspiracy which derives punishment of death, imprisonment for life or rigorous imprisonment for a term of 2 years.

Section 34, Indian Penal Code⁹: It mentions that the act which is done is furtherance of a common intention making each of such persons liable for the act undertaken equally.

Section 307, Indian Penal Code¹⁰: This section talks about the act undertaken which is referred to as an attempt to murder and also provides for punishment which may range from fines to 10 years of imprisonment for the same.

Section 27, Arms Act¹¹: This section prescribes punishments for using arms which may range from a tenure which shall not be less than 3 years of imprisonment and may also extend up to the death penalty.

JUDGEMENT BY THE COURT

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The three-judge bench of the Supreme Court of India comprising Justice Oza G.L., Ray B.C., and Shetty K.J.¹² opined that all the pieces of evidence, statements of the witnesses and the post-mortem report corroborated with each other and thus proving the guilt of the accused for the crimes they have been charged for. Beant Singh who succumbed to his injuries was set free from all the charges registered under his name. Since no solid pieces of evidence were there that suggested Balbir Singh's intention to kill Smt. Gandhi or to be involved in the conspiracy, thus setting him free. It was concluded that Smt. Indira Gandhi's death was a result of injuries inflicted by her two bodyguards, namely Beant Singh and Satwant Singh through their service revolver and cabine respectively making them both liable for the murder of Prime Minister (late) Smt. Indira Gandhi. Kehar Singh on the other hand was involved in the criminal

⁷ Indian Penal Code 1860, s 302

⁸ Indian Penal Code 1860, s 120B

⁹ Indian Penal Code 1860, s 34

¹⁰ Indian Penal Code 1860, s 307

¹¹ Arms Act 1959, s 27

¹² Kehar Singh and Ors v. State (Delhi Administration) [1998] MANU/SC/0241/1988

conspiracy for the same. Section 302 read along with 120B and Section 34 of the Indian Penal Code¹³ were proven for Satwant Singh and Kehar Singh beyond any reasonable doubt. Considering the situation to be rarest of the rare, both the accused were conferred with a penalty of death.

ANALYSIS

Certainly, the sudden and inhumane death of the then-working Prime Minister shook not only the Indian landscape but also the world at large. She was not only a Prime Minister but also a leader elected by a huge population democratically. Indira Gandhi was brutally murdered by the ones who were assigned with the work to protect her, for the very fact that she exercised the rights given to her under the constitutional framework. The questions posed by the appellants were answered by the respondents in a way such that though Section 9(6) Cr.P.C¹⁴ does not permit the High Court to fix a venue for the trial of a particular case i.e. Tihar Jail in the present case other than the place which is notified as an ordinary place of sitting. But the new notification stating Tihar Jail as an ordinary place of sitting along with Tis Hazari and New Delhi which was issued made the trial being held at Tihar Jail an acceptable point. Article 21¹⁵ on the other hand talks about speedy, open and public trials and holding trials at the Tihar jail is not violative of the fact since it was carried out in an office area and not in an area where prisoners were kept and entry of friends and relatives were also allowed making it no less than an open trail. It also mentions that Article 21¹⁶ talks about provisions established by law and not by substantive law which could be amended at any time. So, in conclusion, there was no violation of Article 21 of the Indian Constitution¹⁷ in the judicial hearing process. There was also a claim made to portray bias towards the appellants claiming that in spite of requests made by the accused for issue of a copy of the Thakkar Commission report, it was not given to them. To which the respondents supported the unavailability by stating that when a witness is questioned by a Commission, their statements are protected. This protection ensures that what they say during the Commission's proceedings cannot be used against them in other legal situations, except in cases of perjury. Additionally, the government of India also issued a

¹³ Indian Penal Code 1860

¹⁴ The Code of Criminal Procedure 1973, s 9(6)

¹⁵ The Constitution of India 1949, art 21

¹⁶ The Constitution of India 1949, art 21

¹⁷ *ibid*

special notice to keep the report confidential, even prohibiting its presentation in Parliament. Thus, the non-issuance of the report to the appellants was no violation of rights.

RESPONSE OF INDIAN LANDSCAPE

With the assassination of Smt. Indira Gandhi, rage spread throughout the nation. An anti-Sikh wave of emotions was seen which led to the death of nearly 3000 people belonging to the Sikh community. Mobs attacked and murdered numerous people belonging to the community of Sikhs across the country. The worst of all was seen in the capital city of India, i.e. Delhi. It was believed that a humungous number of 2,700 Sikhs were killed in Delhi¹⁸. Sajjan Kumar who was a high-profile political leader is said to have been involved in inciting people against the Sikh community. Therefore, in *Sajjan Kumar Petitioner v. CBI*¹⁹, the apex court i.e. the Supreme Court convicted Sajjan Kumar for raging hatred against a particular committee and was put behind bars for the same in the year 2010.

CONCLUSION

This case comment is an empirical analysis of the facts, legal issues, judgement and aftermath of the Indira Gandhi murder case. The case was further carried under different heads including the *Kehar Singh v. Union of India*²⁰ which was filed to ask mercy under Article 72²¹ from the president. But this case comment basically concerns itself with the base issue of the assassination of Smt. Indira Gandhi and in addition basics of Anti Sikh riots 1984.

India is a country whose very base is diversity in culture, religion, caste, race, gender, etc and the huge population makes governance an extra pain striking event. Management of this huge disparity may sometimes work, and sometimes it may not. The people governing are no gods and tend to make mistakes. But when we talk about Smt. Indira Gandhi's raging religious sentiments of the Sikh religion were not something she was up to. The very motive of 'Operation Bluestar' was to remove militants from the compound of Shri Golden Temple. All the decisions were taken in line with the Constitutional rights given to her. But that single decision of hers, cost the whole of her life and further on in the future of several other unrelated innocent lives. Convicting and punishing Kehar Singh, Beant Singh, Satwant Singh and Sajjan

¹⁸ Atul Sangar 'Sajjan Kumar: Milestone conviction over 1984 Sikh killings' (BBC NEWS, 17 December 2018) < [Sajjan Kumar: Milestone conviction over 1984 Sikh killings - BBC News](#)> accessed 27 October 2023

¹⁹ *Sajjan Kumar Petitioner v. CBI* [2010] MANU/DE/1708/2010

²⁰ *Kehar Singh and Ors vs. Union of India and Ors* [1988] MANU/SC/0240/1988

²¹ The Constitution of India 1949, art 72

Kumar was the least that could have been done for the delivery of justice to the 'n' number of people who lost their lives and also to their family members who kept faith in the judicial system.

