

SENTENCED TO DEATH BY SUPREME COURT OF INDIA
BASES
PROOF BEYOND REASONABLE DOUBT A FETISH
PROCEDURE IS HANDMAIDEN NOT MISTRESS OF LAW

**EVIDENCE: An alleged fabricated confession on blank paper signed
under torture and threat of death**

Davinderpal Singh Bhullar

The sentence of death was upheld by majority by the Supreme Court of India, on 37 year old Professor Davinderpal Singh Bhullar. The case against him is based on a confession allegedly obtained under torture and threat of death, however the two judges who upheld the death sentence have found this admissible. The presiding judge of the three-judge bench however acquitted the accused, finding that he was not guilty of participating in the 1993 car bomb attack in New Delhi targeting the then Youth Congress leader M S Bitta and too much doubt remained on the authenticity of the alleged 'confession' to the police. However, in stark contrast, the other two judges convicted him arguing, extraordinarily that proof "*beyond reasonable doubt*" should be a "*guideline, not a fetish.*" And that *procedure* is only "*a handmaiden and not the mistress of law.*"

Virtually every legal system around the world is based on 'proof beyond reasonable doubt' and respects procedures to obtain 'safe' evidence. The Supreme court of India seems to have departed from these in this case setting a new precedent for Indian law. While the leading Judge, Justice M B Shah concentrated on the facts of the case, Justice A Pasayat chose to with political rhetoric to find Davinderpal Singh guilty, resulting in contradicting arguments and judgements. Justice Shah went on to say that Davinderpal Singh could not be found guilty of conspiracy as this would require by definition that he conspired with another and as others named in the confession statement are not convicted or tried, it is impossible for him to conspire with himself. He was also not convinced by the authenticity of the confession. Contrary to procedure, the confession was neither handwritten nor recorded but typed on a computer on which it was not saved! In violation of procedure, a magistrate did not have the confession statement when he asked Bhuller whether he had made a confession. The other two judges upheld the confession admissible saying that neither proof beyond reasonable doubt nor procedure was important!

tear here

Date

Dear

Having read the background information on the Davinderpal Singh case, I am extremely disturbed and would like to express my concern. I would be grateful if you would take appropriate action on my behalf, to firstly stop the death penalty and secondly to allow Davinderpal Singh a fair trial in accordance with International law and established principles of justice.

Name:

Address:

FACTS

Mr Bhullar was arrested, detained and tried under the Terrorist and Disruptive Activities (Prevention) Act (TADA), which is no longer in force. The United Nations condemned these laws as “*disturbing and completely unacceptable.*” The case against him is based on information that is highly dubious. No corroborative evidence has been offered by the prosecution. None of the 133 witnesses produced by the prosecution identified him.

Mr Bhullar has been in prison for the last 6 years since being arrested upon arrival after being deported to India following an unsuccessful asylum application in Germany in January 1995. Mr Bhuller whose father was disappeared by the Punjab police in 1991 and whose family was repeatedly harassed went to Germany in December 1994 to seek political asylum. The immigration authorities returned him to India but in his absence a Higher German court overruled the decision.

On being handed over to the Indian police in Delhi by airline staff, Mr Bhuller was taken into detention. The police allege that he volunteered a confession. The police transferred him to the notorious Punjab police for 2 months. Detained and charged under the now lapsed TADA law, Mr Bhuller wrote to the court at the first opportunity of release from police custody to judicial custody, claiming that the ‘confession’ was involuntary and obtained under torture and fear of death.

COMMENTS

This decision has tremendous implications on the legal system in India, it effectively suggests that there is no longer a need to adopt the well established principle of ‘beyond reasonable doubt,’ followed around the world. Secondly, the decision implies that there is no need for police officers to follow procedures that safeguard those arrested. These procedures were relaxed under TADA, this decision has even made them unnecessary. There is no corroborated evidence to support the alleged confession of Mr Bhullar. This judgement will erode the rights of vulnerable people in India.

What can you do?

Based on the above information it appears that Mr Bhullar is highly likely to be innocent. TADA was a controversial law that is not only contrary to international law but considered to be unconstitutional by some authorities. Although allowed to lapse under international pressure, cases predating its lapse are still tried. We request you to write expressing your concerns to any or all of the following authorities

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Please write to

- 1] The President of India
Rashtarpatti Bhavan, New Delhi, India
- 2] High Commissioner for India,
10 Springfield Road
Ottawa, Ontario K1M 1C9
- 3] The Chancellor Gerhard Schroeder, Federal Chancellery
Willy-Brandt Str. 1, 10557 Berlin , Germany
- 4] The United Nations High Commissioner for Human Rights , Palais des Nations CH-1211,
Geneve 10, Switzerland
- 5] **SIKH HUMAN RIGHTS GROUP, CANADA**
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