

---

**INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**

---

**KEHAR SINGH & ORS. v. STATE**  
**(Indira Gandhi assassination case)**

- Nishtha Mittal<sup>1</sup>

**Court:** Supreme Court of India.

**Case name:** Kehar Singh and ors. v. State. (Delhi Admn.) (1988)

**Citation number:**1988 AIR 1883.

**Equivalent Citations:**1988 SCC (3) 609,1988 SCR Supl. (2) 24.

**Bench:** J. GL Ray, J. BC Shetty, J. KJ, J. ND Ojha.

**Date of judgement:** 3<sup>rd</sup> August, 1988.

**Petitioner:** Kehar Singh & others.

Vs.

**Respondent:** State (Delhi administration).

## INTRODUCTION

A quote by Frank Sonnenberg, “*Trust is like blood pressure, it is silent, vital to good health and if abused can turn deadly*” summarizes the cause behind this barbarous act that shocked the entire nation and the world.

---

<sup>1</sup> Student at Amity Law School (GGSIPU)

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

The high-profile murder case is famously called ‘*Indira Gandhi murder/ assassination case*’<sup>2</sup> when the then Prime Minister of the nation Indira Gandhi (1966-84) was assassinated by her own security guards in a cold-blooded murder. The case suggests that the accused was charged with conspiracy to murder and homicide of the victim in pursuance of vendetta against her for launching the infamous ‘*Blue-star Operation*’<sup>3</sup>. Many issues were brought to light by this landmark judgement by supreme court including the scope of power exercisable by president under article-72 of the constitution. This case comment shall scrutinize the judgement and address the issues as decided upon by the honorable court. We shall also discuss about other issues associated with the case like analyzing the ‘rarest of the rare’ circumstances that have been applied in the case in question.

### STATUTES INVOLVED

Following are some legal provisions that are applicable in the case for determining substantial question of law by the supreme court.

1. **Indian Penal Code,1860**<sup>4</sup>

Section 34 (common intention), section 120B (criminal conspiracy<sup>5</sup>), section 302 (murder) and section 307 (attempt to murder).

2. **Constitution of India**<sup>6</sup>

Article 19 (freedom of speech and expression), Article 21 (Right to life), Article 136 (special leave to appeal before supreme court).

3. **Indian Evidence Act, 1872**<sup>7</sup>

Section 10 (acts said or done by conspirator in common design).

4. **Arms act 1959**<sup>8</sup>

---

<sup>2</sup>Rachit Garg, *Kechar Singh &Ors. vs. state (Delhi Admn.)*, IPLEADERS BLOG (May 14, 2021) <https://blog.ipleaders.in/kehar-singh-ors-vs-state-delhi-admn/>.

<sup>3</sup>KD Gaur, *TEXTBOOK ON INDIAN PENAL CODE*, 618-619 (6<sup>th</sup> edition).

<sup>4</sup> <https://indiankanoon.org/doc/1569253/>.

<sup>5</sup>Whoever is a party to a criminal conspiracy to commit an offence punishable with death,[imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

<sup>6</sup> 1950.

<sup>7</sup> <https://indiankanoon.org/doc/1953529/>.

<sup>8</sup><https://indiankanoon.org/doc/1934415/>

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

Section-27 (punishment for using arms).

## FACTUAL BACKGROUND

The unfortunate incident took place to avenge the destruction of the religious throne or the *Akal Takht* and the chaos caused at the infamous Sikh worship place *the Golden Temple* situated in Amritsar, Punjab. The throne was destroyed as a result of firing by the armed forces carrying on the operation *Blue-Star* (1984) headed by the then prime minister Smt. Indira Gandhi. The operation was launched with the aim to filter out the terrorist group *Khalistani* that entered the complex of the temple due to which armed action was resorted to by the armed personnel.

This incident spread like a fire in the nation resulting in rage of the entire Sikh community and their vexation towards the prime minister. This resulted in assassination of prime minister by her own security personnel Beant Singh and Satwant Singh who carefully orchestrated the murder in October 1984 when the prime minister had an interview<sup>9</sup>. They had duties on the gates of the event and as Prime minister entered the premises, she was shot 5 times with the weapon of Beant Singh and 25 times with the weapon of Satwant Singh mercilessly.

In retaliation to the incident, Beant Singh died on the spot and Satwant Singh sustained fatal injuries. Kehar Singh was related to Beant Singh through his wife and was accused to have abetted him to conduct this assassination in the name of their Sikh Guru. All the other accused except Beant Singh were charged with Section<sup>10</sup>-120B, 109, 34 and culpable homicide.<sup>11</sup>

## ISSUES RAISED IN THE CASE

- Whether trial conducted in Tihar jail a valid trial?
- Whether High court has the power to alter the place of trial?
- Whether this case amounts to 'rarest of the rare' for awarding death penalty to the accused?

---

<sup>9</sup><https://www.google.com/amp/s/www.lawinsider.in/kehar-singh-and-others-vs-state-delhi-administration/amp/>.

<sup>10</sup>The Indian penal code, 1860, Act no. 45 of 1860 (act of parliament).

<sup>11</sup>Deepshikha, *Case Summary: Kehar Singh and Others v. State (Delhi Admn.) 1988*, LEGAL BITES (Mar 20, 2021) <https://www.legalbites.in/-kehar-singh-v-state-delhi-admn-1988/>.

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

Further there were many other issues raised before inquiry commission<sup>12</sup> appointed for the investigation of the case headed by Justice Thakkar which were upheld by the court in course of its original judgement that need not be discussed here as all of the were settled beyond any doubt and are not substantial to the present analysis:

- Whether all the events of crime were interrelated?<sup>13</sup>
- Whether there was any criminal conspiracy to commit the assassination?
- Did flaws in security arrangements of the prime minister result in her assassination?

### ARGUMENTS OF BOTH SIDES

**Petitioner:** There were two petitions filed in the High court one of which included the petition of Kehar Singh with Balwant Singh challenging their death sentence while laying contentions that the trial conducted inside the premises of Tihar jail violates of the *Article-21*<sup>14</sup> of the constitution that implicitly mentions right to life include 'right to speedy and open trial' that is in furtherance of natural justice. Moreover, High court's authority to shift the place of trial has not been mentioned in any legal provisions thus making the trial void.

Police was unable to find any proof of abetment by Kehar Singh and Balbir Singh contended that he was falsely accused of absconding from police custody. Also, *Article-19(1)(a)*<sup>15</sup> stands violated due to restrictions on public to hear general proceedings of the case.

**Respondents:** The trial of the accused was not held in premises of the Tihar jail but in an open space of adjacent office that is normally recognized as an ordinary open place of trial. They also contended that there was no violation of *Article-21*<sup>16</sup> as it is merely a procedural law not a substantive one. The counsel also argued that High court's power to specify the place of trial is justified under *Section-9(6)* of criminal procedure code. The facts considered by the apex court cannot be looked into by it under *Article-136*<sup>17</sup> that is special leave to appeal.

---

<sup>12</sup>The commission of inquiry act, 1952, Act no. 60 of 1952 (acts of parliament).

<sup>13</sup>*Supra note 1* at 1.

<sup>14</sup> <https://indiankanoon.org/doc/1199182/>.

<sup>15</sup>Freedom of press.

<sup>16</sup><https://indiankanoon.org/doc/667073/>.

<sup>17</sup> Constitution of India, 1950.

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

## APEX COURT JUDGEMENT

Issues number one and two were settled as court justified the place of trial as a valid place after carefully examining the contention laid by the respondents. It also held that *Section-9* of Criminal procedure code gives the power to high court to supervise in matters of decision related to the place of conducting trial thus the contention of petitioners stand invalid. *Section-327* of the CrPC which directs the trial to be held in open court was not violated by the High court as the complex adjacent is regarded as open space and the family members of accused were also allowed to enter and meet him at such place<sup>18</sup>. According to the proviso of this section, court has the power to restrict or allow any person or Personnel to enter the premises, thus the contention raised by petitioners regarding violation of Article-19 (1) (a) stands settled.

Issue number three regarding whether the case was such that death penalty was justified, was settled by the honorable court by referring to a landmark precedent of *Machhi Singh vs. State of Punjab*<sup>19</sup> to examine application of 'rarest of the rare' circumstances. The court expressed its disappointed calling the case to be "one of the most dreadful crimes" in the history. It held that the assassination was not of any person but of the people serving minister of the nation as a result of breach of trust. The reasoning behind the assassination is religiously driven and misinterpreted by a radical religious group as there involved no intention on the part of prime minister to harm the Akal Takht of the golden temple and it was just a collateral damage while protecting the national security. Thus, the cold-blooded murder was undoubtedly unjustified and cruel.

## VERDICT

The court acquitted accused Balwant Singh as there was no concrete proof of his involvement in the conspiracy due to absence of criminal intention<sup>20</sup> to do so.

The other two accused, Beant Singh and Satwant Singh were responsible for murder of the prime minister due to their pre-planned conspiracy. Appeal of Kehar Singh and Satwant Singh stands dismissed due to lack of any evidence to support their cause. Post mortem report confirmed that the prime minister died of shock and hemorrhage caused by the bullet wounds fired by the main

---

<sup>18</sup> With reference to *Sahai Singh and others vs. Emperor* (1946) AIR 1946 All 333.

<sup>19</sup> 1983 AIR 957.

<sup>20</sup> *Pramatha Nath Taluqdar v. Saroj Ranjan Sarkar* (1962 AIR 876).

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

accused thus death penalty awarded by the trial court and the High court was upheld by the supreme court of India.

The accused stand convicted under Section-302<sup>21</sup> of Indian penal code with reference to criminal conspiracy (section 120B<sup>22</sup>) and furtherance of common intention (section 34) as rightly upheld by the High court.<sup>23</sup> Awarding death penalty has already been justified in previous section and court saw no other ground to pardon the accused involved in such a gruesome crime.

### JUDGEMENT ANALYSIS

The apex court's decision is undoubtedly precise and within strict adherence to the principal of 'Rule of law'<sup>24</sup>. The court not only relied on circumstantial evidence, but also corroborated it with other witnesses and post mortem report available on the issue. It has rightly laid the constitutional justifications regarding the issues raised in the court by both the sides upholding the principal of natural justice. The crime committed here was indeed of gruesome nature as it turned many heads internationally and was condemned by many.

Any leader has a duty to protect the sovereignty and security of his nation and Prime minister was pursuing what she was appointed for while carrying on the operation Blue Star and did not intend to hurt any sentiments. Such radicalism on basis of religion in this progressive society needed to be deterred by the apex court that has proven to be capable in performing its duty.

The audacity of the security personnel appointed for protecting life of the prime minister at the cost of their own, adhered to such brutal act of firing upon an unarmed victim. Gruesome nature of the act is established beyond any doubt thus this judgement marks history in delivering justice to the cause.

---

<sup>21</sup>Whoever commits murder shall be punished with death or [imprisonment for life], and shall also be liable to fine.

<sup>22</sup>*Supra* 4 at 2.

<sup>23</sup>*Supra* 10 at 3.

<sup>24</sup>The mechanism, process, institution, practice, or norm that supports the equality of all citizens before the law, secures no arbitrary form of government, and more generally prevents the arbitrary use of power. (A.V. Dicey).

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)