

Kishen Singh's Petition to the Tribunal

Petition of Sardar Kishen Singh, father of Bhagat Singh, accused

Kishen Singh

20th September, 1930

In this case, the accused persons wanted to produce defence evidence after the perusal of the prosecution evidence. They wanted time to find out the material from the prosecution evidence because they could not produce the defence evidence without fully knowing what they had to meet. The time asked or was about a week, but the Hon'ble Members of the Tribunal, for the reasons best known to them, refused to allow the time. I, therefore, beg to submit the following points for the consideration of the Hon'ble Judges:

1. No reliance should be placed on the evidence of the alleged eyewitnesses, for when Bhagat Singh was brought from Delhi to Lahore during the course of the investigation of this murder case of Mr. Saunders, he was not taken to the Central Jail or the Borstal Institution where the prosecution witnesses could have no opportunity to see him before the formal identification parade held by the Magistrate at the Lahore Cantonment police station. The distance between the Lahore Cantonment Police Station and the Central Jail is only 2 miles. Bhagat Singh could very easily have been brought to the Cantonment Police Station, the witnesses were procured by the investigating staff, and the Magistrate, who had to hold the identification parade was also sent by the investigating staff. There could be no other object of the police to go out of the way, and to arrange the identification parade at the Cantonment Police Station than to give an opportunity to the witnesses to see Bhagat Singh before the farce of an identification parade. I at once made an application to the District Magistrate, Lahore that the identification parade was of no value and referred 21 P.W.R. 19, 1917 (Cr. Ruling) in that application drawing the attention of the learned District Magistrate to this abnormal conduct of the investigating officer. It has been clearly laid down by the Punjab High Court that the evidence of identification is considerably decreased, if the witnesses get an opportunity to see the accused person before holding the identification parade. That application of mine was published in the local newspapers Milap and very probably in The Tribune. No weight, therefore, should be attached to the evidence of those witnesses, who identified Bhagat Singh at the identification parade. You, yourselves, are great Judges and presumably read the newspapers. Photos of Bhagat Singh were published in almost all the newspapers of India after the 'Assembly Bomb Case', and

the witnesses should be presumed to have seen these photographs of Bhagat Singh before the present identification parade took place.

2. There is no manner of doubt that Mr. Fearn, European gentleman and Traffic Inspector of Police, who had plenty of opportunity to see the real criminals, could not identify the culprits. This man being a Traffic Inspector had developed his sense of identifying the natives by virtue of his profession and calling it a life. He could not pick out Bhagat Singh but it is curious that Ganda Singh, Head Constable, and a Naib Court Police Constable and other witnesses, who were accidentally present on the spot, could spot Bhagat Singh. It means that the accused was shown to those witnesses before the identification parade.
3. No reliance be placed on the evidence of the approvers in this case, because the provisions of Sec. 167, Clause (iii) of the Cr. P. Code have been abused by the Magistrate in remanding the accused persons to police custody. Bhagat Singh and other persons, who have been admitted or likely to be admitted as approvers were kept in the police custody in the Lahore Fort and other different police lock-ups for about 3 months continuously. They were not shown the air of the world. Magistrate extraordinarily went over to the lock-ups and remanded the accused persons for fortnights. Instead of being the governors of the police, they were at the beck and call of the police. The object of taking remands in this extraordinary way was that the public might not come to know what grievances the accused persons, who were confined in the strange lock-ups, made before the Magistrate at the time of the remands. Presumably, the police did not want any legal practitioner to contend before the Magistrate at the time of the remands that there are no sufficient reasons for further remanding the accused persons to police custody. The accused persons had no opportunity to know the reasons for which the British subjects were being detained by the police. In 90 days, any amount of evidence can be prepared, the accused persons confined can be made to talk by the notorious methods of the police well known to courts. In Z.C.W.N. page 457, the Hon'ble Judges of the Calcutta High Court have held that the evidence of the accused person, who has confessed and has been admitted or is likely to be admitted as approver, and who has been detained in the police custody up to the time of the trial, is open to the greatest suspicion that the police have arranged his statements so as to fit in with any evidence that they may have obtained elsewhere.

About 100 persons, including the Superintendent Police, Deputy Superintendent, Inspectors, were on the investigating staff in this case. They were the officers of the C.I.D. and the local Police Board vying with one another to contribute some material evidence in this case. It is for the protection of the accused persons and to prevent the fabrication of false evidence in this case that Sec. 167 Cr. P.C. and other similar sections were enacted. In 90 days, even stones can be pulverized into smooth powder. In the case, the accused persons were boys of easy living habits and delicate nature. They could be very easily rehearsed and drilled for a theatrical representation. The C.I.D. keeps record of suspicious persons and their activities, they are in possession of the seditious literature, and have got inter-provincial communications in the country. They could very easily get the seditious literature and the prescriptions (formulae) for bomb-making and fit them in the statements of approvers purchasing their immunity at the sacrifice of the lives of others. And the fiction appears to be more real than the truth. The officers investigating the case, like the

experienced craftsmen and engineer, have built up a structure by violations of the remand law. I, therefore, pray that the orders of the remands may kindly be perused at the time of weighting the evidence of the approvers. These persons were certainly kept and detained by the police without any sufficient reasons against the Punjab Chief Court Ruling No. 24 of 1902 Cr. No person can be detained in police custody without the commencement of the trial for more than 15 days. The law protects the accused persons.

4. The witnesses for the prosecution appeared at a very late stage of the investigation and in this country witnesses can be procured and they come forward to give evidence in order to achieve their own private ends, and the police officers investigating big cases did get witnesses from their friends and hangers-on to corroborate the approvers. Sec. 179 Cr. P. Code has been made to take the assistance of the Police diaries to find out the dates on which their statement were recorded by the police. It is also essential for the prosecution fore pray to the court to see whether it had been done or not.

It is, therefore, in his case that the accused persons have not cross-examined the prosecution witnesses, but the bench is composed of judges of experience. They themselves should apply the tests for testing the veracity of the witnesses. Bhagat Singh was in Calcutta on the day of the occurrence and he actually wrote and despatched a letter to one, Ram Lal, Manager of the khaddar Bhandar, Pari Mahal, Lahore, which was duly received by him. There are respectable gentlemen to swear that Bhagat Singh was in Calcutta on the day of the occurrence. I can produce them if I am given an opportunity, according to justice, equity and good conscience. The question in this case is of life and death. The right of defence is to be jealously preserved for the accused. If an opportunity of defence would have been given, I would have exposed, according to the Evidence Act Sec. 155, who the witnesses for the prosecution are, and what is their position in life, and what are their objects in giving the evidence, when and how they were made witnesses. I still humbly pray that Bhagat Singh may be given an opportunity to produce his defence.

KISHEN SINGH

20th September, 1930 Father of Bhagat Singh, Accused
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