

**SUPREME COURT OF CANADA**

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| **Citation** : R. *v.* Banwait, 2011 SCC 55, [2011] 3 S.C.R. 533 | **Date** : 20111108**Docket** : 34044 |

Between:

Her Majesty The Queen

Appellant

and

Amandeep Banwait

Respondent

**Coram :** McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

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| **Reasons for Judgment** :(paras. 1 to 2) | McLachlin C.J. (LeBel, Deschamps, Fish, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ. concurring) |

R. *v*. Banwait, 2011 SCC 55, [2011] 3 S.C.R. 533

Her Majesty The Queen *Appellant*

v.

Amandeep Banwait *Respondent*

**Indexed as:  R. *v*. Banwait**

2011 SCC 55

File No.:  34044.

2011:  November 8.

Present:  McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

on appeal from the court of appeal for ontario

 *Criminal law — Trial — Charge to jury — First degree murder — Trial judge properly instructed jury on relationship between planning and deliberation and murder.*

 APPEAL from a judgment of the Ontario Court of Appeal (Laskin, MacPherson and Simmons JJ.A.), 2010 ONCA 869, 272 O.A.C. 130, 265 C.C.C. (3d) 201, 82 C.R. (6th) 87, [2010] O.J. No. 5472 (QL), 2010 CarswellOnt 9673, setting aside the accused’s conviction for first degree murder and substituting a conviction for second degree murder. Appeal allowed.

 *Gillian E. Roberts* and *Stacey D. Young*, for the appellant.

 *Philip Campbell*, for the respondent.

 The judgment of the Court was delivered orally by

1. The Chief Justice — We are all of the view that the appeal should be allowed for the reasons set out by MacPherson J.A. at paras. 178-89 of his dissenting judgment (2010 ONCA 869, 272 O.A.C. 130).
2. The appeal is allowed and the conviction for first degree murder restored.

*Judgment accordingly.*

Solicitor for the appellant:  Attorney General of Ontario, Toronto.

Solicitors for the respondent:  Lockyer Campbell Posner, Toronto.