

## SUPREME COURT OF INDIA

Kapur Singh

Vs.

State of Pepsu

Crl.A.No.78 of 1954

(N. H. Bhagwati, B. Jagannadhadas And T. L. Venkatarama Ayyar, JJ.)

15.09.1954

### JUDGEMENT

#### **BHAGWATI J. –**

1. Special leave was granted to the appellant limited to the question of sentence only.

2. About a year before the date of the occurrence, Bachan Singh son of the deceased caused a severe injury on the leg of Pritam Singh, son of the appellant resulting in the amputation of his leg. The appellant harboured a grudge against the father and the son since that time and he was trying to take revenge on a suitable opportunity presenting itself. That opportunity came on 30-9-1952 when the Appellant encountered the deceased, and he and his companion, one Chand Singh, were responsible for the occurrence. Chand Singh held the deceased by the head and the appellant inflicted as many as 18 injuries on the arms and legs of the deceased with a gandasa.

It is significant that out of all the injuries which were thus inflicted none was inflicted on a vital part of the body. The appellant absconded and his companion was in the meantime convicted of an offence under S. 302 and a sentence of transportation for life was imposed on him which was confirmed by the High Court. The appellant was arrested thereafter and his trial resulted in his conviction under S. 302. The learned Sessions Judge awarded him a sentence of the death subject to confirmation by the High Court. The High Court, in due course, confirmed the death sentence.

3. The motive which actuated the appellant in committing this crime was to wreak his vengeance on the family of Bachan Singh. It appears that the appellant intended to inflict on the arms and legs of the deceased such injuries as would result in the amputation of both the arms and both the legs of the deceased, thus wreaking his vengeance on the deceased for what his son, Bachan Singh, had done to his own son Pritam Singh.

The fact that no injury was inflicted on any vital part of the body of the deceased goes to show in the circumstances of this case that the intention of the appellant was not to kill the deceased outright. He inflicted the injuries not with the intention of murdering the deceased, but caused such bodily injuries as, he must have known, would likely cause death having regard to the number and nature of the injuries.

4. We, therefore, feel that, under the circumstances of the case, the proper section under which the appellant should have been convicted was S.304(1) and not S. 302. We, accordingly, alter the

conviction of the appellant from that under S. 302 to one under S. 304(1) and instead of the sentence of death which has been awarded to him which we hereby set aside, we award him the sentence of transportation for life.

Conviction and sentence altered.

</html