

# SUPREME COURT OF INDIA

Mangal Singh

Vs.

State of Madhya Bharat

Crl.A.No.33 of 1956

(N. H. Bhagwati, S. J. Imam, P. Govinda Menon, JJ.)

19.09.1956

## JUDGEMENT

### IMAM J. –

1. This is an appeal by special leave, against the decision of the Madhya Bharat High Court. The appellants were convicted under S.302, read with S.34 of the Indian Penal Code and sentenced to transportation for life for the murder of Suratsingh and Shardulsingh. They were also convicted under S.324 read with S.34, Indian Penal Code and sentenced to three years rigorous imprisonment for having caused hurt to Suratsingh and Shardulsingh for causing injuries to them by shooting them with fire-arms. The sentences of imprisonment were directed to run concurrently. The Sessions Judge had sentenced Mangalsingh to death and the other appellants to transportation for life for the murder of the deceased, but the High Court reduced the sentence of Mangalsingh to transportation for life. The Sessions Judge had framed charges under Ss. 307/34 of the Indian Penal Code against the appellants and, having found them guilty of it, sentenced them to 10 years rigorous imprisonment. The High Court altered the conviction of the appellants under this charge to one under Ss. 324/34 and reduced the sentence to three years' rigorous imprisonment. Four assessors assisted the sessions Judge at the trial and they were of the opinion that the appellants were guilty of the charges framed against them.

2. The murder of Suratsingh and Shardulsingh, who were brothers, is said to have taken place on the 7th of March, 1953 at 6 p.m. on the Bhilsa-Pachhar road. The deceased had two brothers Surjansingh, P. W. 15, and Santokhsingh P. W. 16. An incident had taken place on the 7th of March, 1953 at about 10 or 11 a.m. at Suratsingh's house at Hinnoda when the appellant Dalipsingh with Tarasingh came and invited Suratsingh and Shardulsingh for shikar. Suratsingh, however, was not willing to go. About 3 or 4 p.m. Suratsingh, Shardulsingh, Surjansingh and Santokhsingh went to bathe in a river near village, which had no much water. Suratsingh and Shardulsingh were inside the water but Surjansingh and Santokhsingh were sitting on the bank of the river. Shortly thereafter the appellants arrived from the other side of the river. They had with them fire-arms. They were also accompanied by Tarasingh, who had a revolver. He fired his revolver and hit Suratsingh on the left arm. The appellant Dalipsingh, who was armed with a rifle, fired his rifle at Shardulsingh and hit him on the leg. Surjansingh and Santokhsingh ran away but returned later to the place and bandaged the wounds of Suratsingh and Shardulsingh. A bullock- cart was fetched from Hinnoda. The Injured persons were put on this cart in order that they may be taken to Pachhar Police Station. The cart after having traversed the Kucha track came on the Bhilsa-Pachhar road. The appellant and Tarasingh came there. The appellant Mangalsingh ordered the others to kill the deceased and their

brothers Surjansingh and Santokhsingh. He then fired at Shardulsingh hitting him in the chest. Surjansingh and Santokhsingh ran away. It was about 6 p.m. and getting dark. They heard sounds of more gun fire. They further saw the appellants driving away the cart. Santokhsingh and Surjansingh hid themselves in the jungle till about mid-night and when the moon had risen they went to Chak Mullakhedi where their uncle Dalipsingh P.W. 14, resided. In the morning they went to Hinnoda and informed Suratsingh's wife of the murder of Suratsingh and Shardulsingh. They were told that the bullocks of the bullock-cart had returned in the course of the night. Surjansingh, Santokhsingh, Dalipsingh and one Tejasingh then left for Pachhar Police Station in order that they may lodge a report at the police station; which was done at 9.30 a.m. In the first information it had been mentioned that the cart was not seen on the road at the place where Surjansingh and Santokhsingh had it last. At the place between mile No.4 and the mile No.5 of Bhilsa-Pachhar metalled road a kucha path branches off towards village Davkhedi. Bhogi Chowkidar, P. W. 10, was on his way to Pachhar Police station and while he was walking on the kucha track, he found there a cart, which was altogether burnt, and two charred bodies lying under the burnt wood of the cart and the burnt grass. He, therefore, proceeded to Pachhar Police Station and lodged a report about the finding of the two dead bodies. This in short is the case of the prosecution.

3. One of the charred bodies was identified as that of Shardulsingh and it does not appear from the judgement of the High Court that any submission had been placed before it making the identification doubtful. Although the body of the Suratsingh was also identified, the description of his body might have made the identification doubtful. The circumstances, however make it quite clear that the two charred bodies could not have been the bodies of any other persons than Suratsingh and Shardulsingh. Indeed, it was not argued before us that the charred bodies were not of Suratsingh and Shardulsingh. What had been urged was that Suratsingh and Shardulsingh might have been killed at night when they might have gone to commit dacoity. The burnt bullock-cart was found no far from the place where the deceased had been first attacked on the road. There is no evidence that anyone else's bullock-cart was missing in that locality. There can be therefore be no doubt that the two charred bodies lying under the burnt bullock-cart, which were found by the Chowkidar were the bodies of Suratsingh and Shardulsingh and the cart belonged to them.

4. The first incident of shooting at 3 or 4 p.m. on the 7th of March, 1953 and the incident of shooting at 6 p.m. on the same day on Bhilsa-Pachhar road was witnessed by Surjansingh, P.W.15, and Santokhsingh, P.W. 16. These witnesses were believed by all the assessors, the Sessions Judge and the Judge of the High Court. On their evidence there can be no room for doubt that the appellants were guilty of the crime of murder and the hurt to the deceased. Normally in such a case that would conclude the matter.

5. It was, however, urged that there had been misjoinder of charges. This, point does not seem to have been urged in the High Court because there is no reference to it in the judgement of that court and does not seem to have been taken in the petition for special leave. The appellants cannot, therefore, be permitted to raise this question at this stage.

6. It was next urged that a great deal of evidence in the nature of bad character of the appellants had been admitted to the prejudice of the appellants, that such evidence was inadmissible and the courts below must have been prejudiced against the appellants by such evidence. It seems to us, however, that the evidence which discloses certain unpleasant things about the appellants in the past was examined by the courts in order to ascertain the motive for the murder and not for the purpose of

determining as to whether the appellants were persons of bad character likely to commit murder. Some of the evidence also showed that at least some of the appellants could have been in possession of fire-arms. It does not appear to us, on examination of the judgements of the court below, that any part of this evidence was used by them against the appellants in order to support any doubtful evidence was used by them against the appellants in order to support any doubtful evidence in the case. The conviction of the appellants was based entirely upon the evidence of Surjansingh, P. W. 15 and Santokhsingh, P. W. 16.

7. It was suggested that when the two eye-witnesses to the occurrence were interested persons there should be corroboration of their evidence by independent witnesses. It seems to us this is a proposition which cannot be of universal application. In the present case, evidence of the eye-witnesses receives ample corroboration from the circumstances that the dead bodies of Suratsingh and Shardulsingh and the burnt bullock-cart were found not far from the place where they were first attacked by the appellants.

8. It seems to us that the matter is concluded by the evidence of the two witnesses whose testimony was accepted by the Courts below and no substantial question has arisen in this appeal for this Court to interfere at by both the Courts below. The appeal is accordingly dismissed.

Appeal dismissed.

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