

Karnail Singh and Others

Vs

State of Punjab

Criminal Appeal No. 21 of 1971

(J.M. Shelat, I.D. Dua, S.C. Roy JJ)

04.08.1971

JUDGMENT

ROY, J. -

1. This is an appeal by way of special leave from the judgment and order, dated September 16, 1970, of the Punjab and Haryana High Court at Chandigarh.

2. In the early hours of the morning of August 2, 1969, a tragedy occurred in the Abadi of Dholewal, a suburb of Ludhiana town. Two persons, namely, Gulwant Singh and his sister's son Piara Singh, both residents of the same village, were shot to death at the spot while Sadhu Singh (P.W. 3) a resident of Kot Sekhon received gunshot wounds. In consequence five persons were jointly tried by Sessions Judge, Ludhiana, Shri. M. L. Verma, for offences under Sections 302, 307, 326 and 324 read with Section 149 and under Section 147 and 148 of the Indian Penal Code. Three of them are brothers, namely, Sohan Singh, Mohan Singh and Bachittar Singh - all residents of village Dholewal. The fourth is Karnail Singh (alias Faqiria) another resident of that village who is stated to be a Pagwat brother of Sohan Singh and the fifth is Labh Singh, a resident of village Chak Sarai whose sister is the wife of Sohan Singh.

3. Before the Sessions Judge, Bachittar Singh was given the benefit of doubt and acquitted and his four co-accused were convicted and sentenced as follows :

Karnail Singh and Sohan Singh were sentenced to death. They were also given sentences for imprisonment for various periods.

Mohan Singh and Labh Singh were given life and other sentences.

4. Against the judgment of the learned Sessions Judge, two appeals were filed being Criminal Appeal No. 560 of 1970 by Karnail Singh convict and Criminal Appeal No. 586 of 1970 by the three other convicts. The relationship between the accused and the deceased and the P.Ws. would appear from three tables which were given to us during the hearing.

# TABLE I Maghar Singh \_\_\_\_\_ || Gulwant  
Singh Bhag Singh Sham Kaur(Deceased I) (P.W. 5) (P.W. 7)

\_\_\_\_\_ || Piara Singh (son) Daughter (name  
not brought (Deceased II) on record). She was married to (P.W. 3) Sadhu Singh (son-in-law of P.W.

7) TABLE II Natha Singh

\_\_\_\_\_ || Bachittar Singh

Sohan Singh Mohan Singh (Acquitted) 1.(Appellant) (appellant) 2.(brother-in- law of appellant Labh Singh) TABLE III Sarwan Singh

\_\_\_\_\_ |||| Ghuman Sohna  
\*Dalip Labh Daughter, (name not Singh Singh Singh brought on record). (Appellant) She was married to appellant Sohan Singh.##

\*Dalip Singh's wife Gurdev Kaur was residing at the time of the incident on August 1, 1869, with the deceased Gulwant Singh (Deceased No. I).

Note I - Appellant karnail Singh is not related either to the family of the deceased or the P. Ws. or to the accused. He is said to be a friend of appellant Sohan Singh.

Note II - Appellant Labh Singh is the son of Gulwant Singh's (Deceased I) wife's sister.

5. The prosecution case was shortly as follows :

Gulwant Singh and Piara Singh, both residents of village Dholewal, were the joint owners of a truck. Sadhu Singh, Piara Singh's sister's husband was employed by them as the truck-driver. Labh Singh appellant is the wife's brother of Sohan Singh appellant. He used to pay visits to the later and during those visits used to stay with Sohan Singh and his brothers, namely, Mohan Singh appellant and the said Bachittar Singh. The relationship between Labh Singh appellant and his brother Dalip Singh on the one hand, and their brothers Ghuman and Sohana on the other, was strained.

6. The marriage of Shrimati Gurdevo with Dalip Singh was arranged by Gulwant Singh deceased. This was because Gulwant Singh was a common relation of both of them. Dalip Singh began to reside separately from his brothers, and Labh Singh, who was unmarried, developed illicit intimacy with Shrimati Gurdevo, to the displeasure of her father Ralla Singh. Ralla Singh took her to the house of Gulwant Singh deceased and left her there. Ghuman and Sohana also disapproved of the relations between Labh Singh appellant and Shrimati Gurdevo, and on July 31, 1969, came to the house of Gulwant Singh in Dholewal. Labh Singh appellant and his brother Dalip Singh also came to Dholewal and stayed in the house of Sohan Singh appellant. This led to the convening of an Panchayat on the morning of August 1, 1969, when it was decided that Sohan Singh appellant would turn out Labh Singh appellant and his brother Dalip Singh from his house, and Gulwant Singh deceased would expel Ghuman and Sohana from his house and that Shrimati Gurdevo, who was in a family way, would continue to stay with Gulwant Singh deceased till her confinement was over. Gulwant Singh deceased honoured the verdict of the Panchayat and sent away Ghuman and Sohana but Sohan Singh appellant did not comply with the decision of the Panchayat.

7. On the same day Sadhu Singh returned from Calcutta with his truck. He unloaded the truck at Ludhiana. He parked the vehicle in a workshop and then reached the house of Piara Singh deceased at about 8 a.m. He rested during the day and then left for Ludhiana in the company of Piara Singh with a view to have repairs done so that the truck could be taken to Calcutta the next day. At about 4 or 5 p.m. he made over Rs. 700/- to Piara Singh deceased, to whose house, and in whose company he returned at about 11 p.m. The two persons, Piara Singh deceased and Sadhu Singh, accompanied by Gulwant Singh deceased went up to the roof of the Baithak of the house and started settling the accounts relating to the trip of Calcutta and back, in the present of Bhag Singh (P. W. 5) and Shrimati Sham Kaur (P.W. 7). About midnight Bachittar Singh and Sohan Singh accused came to the house of Piara Singh and asked him from outside to come down to them. Piara Singh descended from the roof and Bachittar Singh asked him to accompany him to the village gate as he had some

business with him. In the meantime Gulwant Singh deceased, Bhag Singh (P.W. 5) and Shrimati Sham Kaur (P.W. 7) descended from the roof of the Baithak. Sohan Singh appellant reached a spot where there was a village platform. The platform was at a distance of 30 Karams from Piara Singh's house. There he jointed the three other appellant who were present there. When Piara Singh reached a place near the platform Labh Singh shouted to his co-appellants to shoot. Karnail Singh appellant who was carrying a .12 bore gun fired a shot and Piara Singh fell wounded on the ground. Sohan Singh and Mohan Singh appellants took out two .12 bore country-made pistols from under the Chadars and with the pistols fired a shot each at Gulwant Singh deceased and Sadhu Singh respectively, both of whom were wounded. Then Labh Singh appellant moved a little and gave with a Gandasa two blows to Piara Singh deceased and one to Sadhu Singh (P.W. 3). All the accused then went away firing shots at random.

8. Bhag Singh (P.W. 5) and Shrimati Sham Kaur (P.W. 7) found Gulwant Singh and Piara Singh dead and Sadhu Singh injured. By then Kartar Singh (P.W. 4) had also arrived. Sadhu Singh was taken to the Civil Hospital and Bhag Singh proceeded to the Police Station. The F.I.R. was recorded at the Police Station, Sadar, Ludhiana, at 3-15 a.m. At first a search for the accused was unsuccessful. Later in the day the Sub-Inspector was able to arrest Karnail Singh appellant and Bachittar Singh. He took into possession a double-barrel gun which Karnail Singh appellant was carrying at the time.

9. Mohan Singh and Sohan Singh appellants surrendered in the Court of the Magistrate on August 5, 1969, while Labh Singh was arrested on August 6, 1969, when a country-made pistol was recovered.

10. The autopsy on the two dead bodies was carried out on August 2, 1969. Gulwant Singh was stated to have sustained 60 gunshot wounds. On the dead body of Piara Singh were found to gunshot wounds and two incised wounds.

11. At the trial fifteen witnesses were examined. They included three eye-witnesses, namely, Sadhu Singh (P.W. 3), Bhag Singh (P.W. 5) and Sham Kaur (P.W. 7). Their respective versions were substantially the same and were accepted by both the Courts. Bhag Singh gave evidence on the motive part. He related the story about Gurdevo and the Panchayat decision. The stand of the five accused persons was one of denial. They did not produce any evidence in defence.

12. With regard to the motive part of the prosecution case the High Court observed as follows :

"Taking up the motive part of the prosecution case first, we find it to have been fully established by the testimony of Bhag Singh (P.W. 5) and Sham Kaur (P.W. 7), neither of whom was seriously sought to be contradicted in regard thereto during cross-examination."

With regard to the Sessions Court's findings regarding the eye-witnesses the High Court said that :

"Light from the moon as well as from the electric lamps lying installed in the vicinity of the place of occurrence was held sufficient for a proper identification of the culprits by the three eye-witnesses....."

13. The fact that appellants absconded was considered as the circumstance indicative of the guilty conscience.

14. At the trial Bachittar Singh was given the benefit of doubt as a matter of abundant caution and not because "eye-witnesses have told lies". Against the four appellants the charge was fully established. The learned Judges of the High Court held that the principal offenders Karnail Singh and Sohan Singh deserved no leniency, but in the circumstances of the case in respect of the two others they were of the view that the punishment called for imprisonment for life only.

15. Before this Court two points were taken for the appellants. First, whether there was sufficient light for proper identification of the accused persons. And secondly - what was the distance from which the shots, or some of them, had been fired?

16. As to the first point our attention was drawn to a plan of the site of occurrence. It purports to have been prepared on August 4, 1969. This plan clearly shows that there were three electric lights, if not four, in or about the place. Apart from electric lights, there was bright moon-light. On the night between July 28 and 29, 1969, there was the full moon. On the night of occurrence the moon was up at about 9-35 p.m. and about the time of occurrence there was bright moon-light. Moreover, the accused persons were all known to the eye-witnesses which makes problem of identification much easier. The Peepal tree or its shadow also did not then cause obstruction to the vision. The contention of the appellants that in moonlight visibility does not go beyond about 36 feet on a full moon-light is met by the fact that there were quite a few electric lights in the vicinity of the spot. We do not think there is any substance in the argument that light was not sufficient.

17. With regard to the second point we have the following evidence.

18. The deposition of the Lady Doctor who gave medical evidence is as follows :

"Gulwant Singh had died due to shock and haemorrhage resulting from rupture of the stomach, liver, right kidney, small and large intestines, which had been caused by the pellets of the shot which had been fired at him by the fire-arm from a distance within six feet."

Then the deposition contains :

"The fire, the pellets of which had caused injuries to Piara Singh, must have been opened at him by the assailants standing in front and towards his right side from a distance within about six feet."

19. Before this Court it was argued that judging from the area of spread, the gunshots were probably fired from a distance of 36 yards which would make the prosecution story inconsistent with the above theory. But this is a case where eye-witnesses gave direct evidence of the crime. In view of what has been said about light, identification was not in doubt. That being so, the question of distance loses much of its strength. We see no substance in this argument.

20. There was deliberate murder. There are no extraneous circumstances. Law must have its course. The appeal is dismissed.

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