

Jagdip Singh and Another

Vs

State of Haryana

Criminal Appeal No. 127 of 1973

(M. H. Beg, Y. V. Chandrachud JJ)

27.02.1974

JUDGMENT

CHANDRACHUD, J. -

1. These proceedings arise out of the murder of one Gurbachan Singh. The appellants Jagdip Singh and Gurbachan Kaur alias Bachni are his son and wife respectively. The learned Sessions judge, Ambala, convicted Jagdip Singh under Sections 302 and 201, Penal Code, and sentenced him to death for the offence of murder. Bachni was convicted under Section 302, read with Section 34 as also under Section 201. She was sentenced to imprisonment for life on the former charge and like her son to four years' rigorous imprisonment on the latter charge. The order of conviction and sentence having been confirmed by the High Court of Punjab and Haryana at Chandigarh the appellants have brought this appeal against that judgment, by special leave.

2. The relations between the deceased Gurbachan Singh and his son Jagdip Singh were highly strained. There were disputes between them concerning properties and in August, 1966 Jagdip Singh had assaulted Gurbachan Singh with a spear. Towards the beginning of 1970 one Uma Paul started living with Gurbachan Singh supposedly as his wife but in all probability as a mistress. Uma Paul used to live with Gurbachan Singh in the village of Bhed Thal along with her daughter, Surjit Kaur, who was born to her from her former husband. In the adjoining house used to live the appellants. In January, 1971, Bachni filed a suit to recover a sum of Rs. 4,500 as maintenance from Gurbachan Singh. The trial Court had granted an interim injunction in that suit restraining Gurbachan Singh from alienating his properties. The appeal filed by Gurbachan Singh against that order was pending in the District Court, Ambala on the date that he was murdered.

3. On August 19, 1971, Gurbachan Singh was sitting in the courtyard of his house at about 6 or 6.30 p.m. Uma Paul had cooked the evening meal for him while her daughter, Surjit Kaur, was sitting a few feet way peeling onions. The appellant Jagdip Singh suddenly entered the courtyard and is alleged to have fired a pistol shot which hit Gurbachan Singh collapsed, the appellants removed him on a cot with the help of two other persons, Hari Singh and Jit Singh, and took him over a distance under a Neem tree. Bachni brought a Gandasi with which her son, Jagdip Singh, hacked the deceased. Bachni also brought a tin of kerosene oil, sprinkled it on the body of her husband which was then set on fire.

4. Uma Paul and Surjit Kaur who are alleged to have seen the entire incident left immediately for the Jagadhri police station. On their way, they met Sub-Inspector Darshon Singh who recorded the statement of Surjit Kaur at about 7.30 p.m. That statement was despatched to the police station where the formal First Information Report was recorded at 8.20 p.m. Darshon Singh then went to

the place of occurrence, extinguished the fire, gathered the various parts of the burnt body and sent the same for autopsy. Jagdip Singh was arrested on the 20th and Bachni on the 21st.

5. The case depends for its success on the evidence of Uma Paul and Surjit Kaur. Their evidence in regard to the pistol shot fired by the appellant Jagdip Singh has been accepted by the Sessions Court and the High court and, in our opinion, rightly.

6. Learned Counsel appearing on behalf of the appellants urges that the evidence of these two witnesses was not believed by either Court in regard to Hari Singh and Jit Singh who were acquitted and therefore the evidence must be discarded as against the appellants also. Hari Singh and Jit Singh had no motive against the deceased Gurbachan Singh and the sessions Court held that the case was not proved against them beyond a reasonable doubt because there were material contradictions in the evidence of the two witnesses as regards the part played by them. That does not mean that the evidence as regards the participation of the appellants must also be rejected.

7. We also see no substance in the various other points made by Counsel for the appellants as regards the evidence of Uma Paul and Surjit Kaur. The village of Bhed Thal consists of 50 houses and the grievance is that none of the inmates of those houses was examined as a witness. The evidence of the investigating officer shows that the villagers were in no mood to co-operate and indeed even the Sarpanch offered but a stinted assistance to the investigating officer. Gurbachan Singh was not a man of any character and he was openly living in the village with a mistress. Either, that the villagers had no sympathy for him or perhaps they wanted to stay away from what they thought was a family feud. A pistol-wielding desperado like Jagdip Singh who had no a prior occasion assaulted his father with a spear must have by his actions kept away the independent witnesses out of a sense of fear.

8. Learned Counsel for the appellants finds fault with the investigating officer for having recorded the statement of Surjit Kaur as the First Information Report rather than that of her mother Uma Paul. We see no substance in this criticism. Surjit Kaur was 14 or 15 years of age and she had seen the shooting incident as much as her mother had done. Whether or not her mother was overcome by grief so as not to be in a position to make a statement, the investigating officer had no special reason to prefer recording the statement of the daughter. Uma Paul was in the company of her daughter when the latter's statement was recorded.

9. Though we have no doubt that Uma Paul and Surjit Kaur had seen the appellant, Jagdip Singh, firing a pistol shot at Gurbachan Singh and that Gurbachan's death was caused as a result of that shot, we are unable to agree that the offences under sections 302 and 201, Penal Code, are proved against Bachni beyond a reasonable doubt. Uma Paul and Surjit Kaur have stated in their evidence that Bachni was standing behind Jagdip Singh, when the latter fired the pistol shot at Gurbachan Singh. Significantly, the First Information Report does not refer to the presence of Bachni at the time when Jagdip Singh fired the pistol shot. The Report does not also mention that Bachni brought a Gandasi or that she sprinkled kerosene on the dead body of her husband. These obviously were embellishments which were later introduced by the two witnesses. The claim of Uma Paul and Surjit Kaur is that immediately after Jagdip Singh fired the pistol shot they ran away but they went and stood at a distance of about 20 yards from where they saw the final stage of the episode. It seems to us impossible to believe that the two witnesses could have continued to stand there to be able to see what later happened under the Neem tree. They must have run away on the heels of the shooting outrage and that explains how they met P.S.I. Darshon Singh almost immediately after the incident. If Bachni had accompanied Jagdip Singh when Gurbachan Singh was shot at or if she had

brought a Gandasi and sprinkled kerosene on the dead body of Gurbachan Singh, it is hardly likely that Surjit Kaur would have skipped reference to these facts in the statement which she made almost immediately after the incident. The Sessions court and the High Court have ignored the countervailing significance of these circumstances.

10. An appeal was made to us that the death sentence imposed on Jagdip Singh may be reduced to life imprisonment but we are unable to see any valid reason for interfering with the discretion exercised by the Sessions Court and the High Court.

11. We therefore confirm the conviction and sentence imposed on Jagdip Singh but set aside the conviction and sentence imposed on Gurbachan Kaur alias Bachni.

</html