

Prem Singh

Vs

State of Punjab

Criminal Appeal No. 164 of 1971

(P.N. Bhagwati, R.S. Sarkaria JJ)

09.09.1975

JUDGMENT

BHAGWATI, J. -

1. The appellant and four other accused were tried for an offence under Section 302 read with Section 149 for causing the death of the Satnam Singh and for offences under Sections 323, 324 and 148 Indian Penal Code for causing injuries to Satnam Singh and Gurnam Singh. The Sessions Court acquitted the four accused but convicted the appellant of the offence under Section 304 Part I of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for ten years. The appellant preferred an appeal to the High Court of Punjab against the order of conviction and sentence recorded against him. The State also preferred an appeal against the acquittal of all the accused including the appellant under Section 302 read with Section 34, Indian Penal Code. The High Court confirmed the acquittal of the four other accused, but so far as the appellant was concerned, the High Court converted his conviction from Section 304 Part I to Section 302 and sentenced him to suffer rigorous imprisonment for life. The appellant thereupon preferred the present appeal by special leave obtained from this Court.

2. There were only two eyewitnesses to the incident in which Satnam Singh met with his death. They were his brothers Sadhu Singh PW 2 and Gurnam Singh PW 3. The evidence of both these witnesses in regard to the participation of the four other accused was rejected both by the Sessions Court as well as by the High Court as unreliable, as it was falsified by the medical evidence. These two witnesses had stated that spear injuries were caused to Satnam Singh and Gurnam Singh by the four other accused, but the medical evidence revealed that there were no such injuries. Now, if the evidence of these two witnesses was disbelieved by both the lower courts in regard to participation by the four other accused in the incident, it is difficult to see how it could be accepted so far as the role assigned to the appellant is concerned. The conviction of the appellant is founded solely on the evidence of these two witnesses whose testimony cannot be said to inspire confidence in the mind of the Court. Moreover, it is interesting to note that though, according to the evidence of Sadhu Singh, there were two teachers present at the time of the incident, who called have given evidence as independent witnesses, neither of them was examined by the prosecution. The prosecution chose to rest its case entirely on the evidence of Sadhu Singh and Gurnam Singh, who were brothers of Satnam Singh. We do not think it safe to convict the appellant on the basis of the evidence of Sadhu Singh and Gurnam Singh alone.

3. We, therefore, accord the benefit of doubt to the appellant, set aside his conviction and acquit him of the offence charged against him with a direction that he be set at liberty forthwith.

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