

Ram Kishan

Vs

The State of Punjab

Criminal Appeal No. 244 of 1973

(V.V. Chandrachud, A.C. Gupta JJ)

19.11.1975

JUDGMENT

CHANDRACHUD, J. -

1. The appellant, Ram Kishan, and two others were convicted by the learned Sessions Judge, Hoshiarpur, on the charge, mainly, that they had committed the murder of one Ram Chand. In appeal, the High Court of Punjab and Haryana upheld the conviction and sentence of the appellant on the charge of murder but altered the conviction and sentence of the two others. The appellant filed a petition for special leave in this Court but leave was granted to him only on the question as to the nature of the offence committed by him. Thus, the only question which this appeal raises is whether the appellant can justifiably be convicted of a lesser offence than the one under Section 302.

2. Mr. Singh who appears on behalf of the appellant drew our attention to certain portions of the judgment of the High Court and contended that it is clear from the findings recorded by the High Court that the appellant had no intention to cause the death of Ram Chand and in that view, the offence would fall under Section 304 Part II and not under Section 302 of the Penal Code. For this submission, Mr. Singh seeks to derive support from the following observation made by the High Court.

There may appear to have been a sudden flare-up of tempers because of the complainant party's attempt to extend their unauthorised possession over the land belonging to the appellants.

Mr. Sharma who appears on behalf of the respondent, the State of Punjab, contends that this observation of the High Court is wholly unfounded and there is no warrant for the assumption that the appellant assaulted Ram Chand in the heat of a sudden quarrel. Mr. Sharma has read out to us the evidence of Dayaram the brother of Ram Chand, who had also received injuries during the incident which resulted in Ram Chand's death. It is clear from Dayaram's evidence that the assault on Ram Chand was not preceded by any quarrel or "sudden flare-up" whatsoever. The appellant, in his statement under Section 342 Cr. P. C., has not even so much as hinted that there was any quarrel between him and Ram Chand which led to the assault on Ram Chand.

3. The appellant had purchased the disputed property from one Gajinder Chand about ten years before the date of the incident but it appears that Ram Chand was already in possession of a portion of that property. Proceedings were pending against both the parties under Section 107 Cr. P. C. and it appears that the appellant took the law into his own hands by putting an end to his adversary's life. While Ram Chand Daya Ram and others were sitting in their cattle shed, the appellant and his

companions entered the cattle shed and assaulted Ram Chand and others. The circumstances that the appellant did not assault Ram Chand with the sharp end of the gandasa but with its blunt end is undoubtedly relevant on the question of sentence, but taking all the facts and circumstances of the case into account, we do not think that this is a fit case for interfering with the concurrent finding recorded by the Sessions Judge and the High Court both as regards the conviction and sentence. We accordingly dismiss the appeal and confirm the sentence of life imprisonment imposed on the appellant for the offence under Section 302 Penal Code.

</html