

Jaspal Singh and Another

Vs

State of Haryana

Criminal Appeal No. 78 of 1975

(Y. V. Chandrachud, V. R. Krishna Iyer, A. C. Gupta JJ)

24.11.1975

JUDGMENT

CHANDRACHUD, J. -

1. Four persons were convicted by the learned Sessions Judge, Karnal to imprisonment for life under Section 302 read with Section 34 of the Penal Code as also of lesser offences. The High Court of Punjab and Haryana having confirmed that judgment, the accused filed a petition for special leave in this Court. Leave has been granted only to the two appellants before us. The petition of the other two accused was rejected by this Court.

2. The incident out of which the prosecution arises took place on the evening of August 8, 1969. The cattle belonging to the accused strayed into the deceased's field and that sparked off a dispute during the course of which Balbir Singh received fatal injuries while two other received grievous injuries.

3. Having heard counsel for the parties, it seems to us impossible to hold that the appellants shared the common object of the two other accused to commit the murder of Balbir Singh. Appellant Jaspal Singh caused one grievous injury to Fateh Singh and two simple injuries to Jaswant Singh. Appellant Hoshiar Singh caused an injury to Balbir Singh after he had fallen down and that was an injury on Balbir Singh's finger. Hoshiar Singh also caused two simple injuries to Jaswant Singh. Considering the totality of circumstances it is difficult to hold that there was any pre-concert between the appellants and the other two accused to kill Balbir Singh. It is necessary to add that this conclusion does not rest on the mere circumstance that one of the appellants did not participate in and the other took a very insignificant part in the assault on Balbir Singh.

4. The conviction of the appellants under Section 325 Penal Code and Section 24, Cattle Trespass Act must, however stand. They can each and individually be held guilty for the injuries caused by them. We, therefore, convict each of them under Section 325 and uphold the sentence of two years rigorous imprisonment imposed on them for that offence. Since they have already undergone a sentence of over 6 years, we direct that they shall be released forthwith.

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