

Akoijam Ranbir Singh

Vs

The Government of Manipur

Criminal Appeal No. 280 of 1971

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

07.04.1976

JUDGMENT

SHINGHAL, J. -

1. Appellant Akoijam Ranbir Singh was tried by the Sessions Judge of Manipur for the alleged murder of Ibohal Singh. He was given the benefit of doubt and was acquitted on November 2, 1967. The State preferred an appeal, and the Judicial Commissioner of Manipur took a contrary view. He convicted him of the offence under Section 302 I.P.C. and sentenced him to imprisonment for life. Akoijam Ranbir Singh has therefore filed the present appeal.

2. The allegation against the appellant was this. Sanajoba Singh (PW 2) and Dorendro Singh (PW 3) were going on Parma Road in Imphal bazar on December 13, 1966, in the evening, when they met their friend Raghumani Singh (PW 4) near Pratap Talkies. All three of them went to Eikhoigi Hotel for tea. Thereafter, when they were standing outside, on the road, near the verandah of Bharat Shoe House, opposite Pratap Talkies, towards the west of pan stall, the appellant came there with a friend at about 6.30 p.m. and stopped near the pan stall. He beckoned Sanajoba Singh (PW 2) and when Sanajoba Singh went near him he asked him why he was gazing at him. There was an exchange of hot words between them and the appellant and his friend gave fist blows to Sanajoba Singh on the face. Sanajoba Singh retreated. In the meantime, Ibohal Singh came out of the Bharat Shoe House and separated them. The appellant and his friend then went towards the south, while Sanajoba Singh and his friends Dorendro Singh (PW 3) and Raghumani Singh (PW 4) went to Eikhoigi Hotel again for taking their bicycles. When they came out, they found Ibohal Singh standing in the verandah of Bharat Shoe House. Sanajoba Singh did not know Akoijam Ranbir Singh and asked Dorendro Singh and Raghumani Singh who his assailant was. They told him the appellant's name and said that they did not know the name of the other assailant. Dorendro Singh and Raghumani Singh then proceeded a bit ahead, while Sanajoba Singh went behind. When they were about to approach the lane running to approach the lane running to the west of Poona Road, Sanajoba Singh heard a voice at a distance of some five or six feet, from behind, asking him to wait. Sanajoba Singh, Dorendro Singh and Raghumani Singh then stopped, and they saw the appellant coming alone on foot. He asked Sanajoba Singh to "settle the matter", and Sanajoba Singh agreed to do so. The appellant then said that the matter might be settled at some other place. Ibohal Singh, who was still standing in the verandah asked Sanajoba Singh and the appellant to settle the matter there. Dorendro Singh and Raghumani Singh however went away leaving their friend Sanajoba Singh alone. Ibohal Singh asked the appellant and Sanajoba Singh to go away, but the appellant was unwilling, and there was an exchange of hot words between him and Ibohal Singh for two or three minutes. Sanajoba Singh was then standing at a distance of about 1 and half "fathoms" away, on the footpath, near the verandah of Bharat Shoe House, while Ibohal Singh was standing near the verandah at a distance of about 2 and

half feet from the appellant. The appellant took out a knife with a blade of about 5" from the pocket of his trousers and thrust it on the right side of Ibohal Singh's belly. Ibohal Singh Stood down a bit and cried "Thang" (dagger). The appellant then dealt a second blow, on the left side of Ibohal Singh's chest, and ran away. Ibohal Singh rounded the pillar of the verandah and ran after the appellant. Sanajoba Singh (PW 2) also ran after the appellant but he made good his escape on his bicycle. Sanajoba Singh heard the cry "Ei yadre" ("I collapse") from Ibohal Singh, and saw him falling at a short distance from him. He saw Nimai Singh (PW 5) rushing to Ibohal Singh's help. Sanajoba Singh brought a rickshaw and he and Nimai Singh took Ibohal Singh, who had become unconscious towards the hospital. All this is said to have happened at about dusk (about 7.30 p.m.). They reached the hospital shortly after wards, Ibohal Singh was taken to the emergency room by Sanajoba Singh and Nimai Singh, with the help of Dorendro Singh and Raghumani Singh who had reached the hospital on learning about the incident from Sanajoba Singh while he was taking Ibohal Singh in the rickshaw. Dr. Ibema Devi (PW 10) attended on Ibohal Singh and called Dr. Lalmuhon Singh (PW 16), but Ibohal Singh succumbed to his injuries in about 10 or 15 minutes. Sanajoba Singh narrated the incident, as to how the appellant had inflicted the injuries on Ibohal Singh to Dorendro Singh, Raghumani Singh and others. Dorendro Singh went and informed Ibotan Singh (PW 1) (brother of Ibohal Singh's grandfather) about the incident, and Ibotan Singh went to the hospital along with Dorendro Singh. They met Ibohal Singh's father on the way, but did not wait for him to accompany them as he was going on foot. On reaching the hospital Ibotan Singh found Ibohal Singh lying dead in the emergency room, and then he went and lodged report Ex. P-1 at the police station at 8.30 p.m. In the meantime, A.S.I. Bacha Singh (PW 9), who was on "bazar duty", learnt about the incident and reached the hospital. A case was registered by the police, and the appellant surrendered on December 18, 1966. He was prosecuted for the offence of murder, but was acquitted by the Sessions Judge, as aforesaid. The Judicial Commissioner of Manipur has taken the view that the acquittal was based on flimsy and insignificant grounds as the case was not examined in its proper perspective, and he has convicted and sentenced the appellant as aforesaid.

3. The name of the assailant was not stated in the first information report Ex. P-1. On the other hand, it was stated there that Ibohal Singh had been stabbed by "somebody" and the "culprits" may be arrested and dealt with. The Sessions Judge took this omission into consideration, and held that Sanajoba Singh (PW 2), who has been examined as the only eyewitness of the incident, was not a witness of the incident and that the name of the assailant was not known at all. An attempt was made to prove the dying declaration of the deceased, but reliance on it has not been placed on either side. The Sessions Judge also found that there was a discrepancy regarding the place of the incident, and he noticed the fact that no bloodstains were found in or near the verandah of Bharat Shoe House, where the incident was said to have taken place. He noticed certain inherent improbabilities of the said to have taken place. He noticed certain inherent improbabilities of the prosecution case. He disbelieved the version of the prosecution that Dorendro Singh and Raghumani Singh had not intervened to save their friend Sanajoba Singh in spite of the manhandling of Sanajoba Singh by the appellant and his associate, and the contention that they left him alone in spite of the further threat by the appellant. The Sessions Judge also took notice of the fact that although, according to the prosecution, Sanajoba Singh received fist blows on the face at the hands of the appellant and his associate, no mark of injury was found at all. In addition to these factors, the Sessions Judge made a mention of the further fact that Sanajoba Singh did not, according to him, raise an alarm to have the appellant apprehended in the bazar even after he had dealt two knife blows on the person of Ibohal Singh. The other evidence on the record has also been criticized by the Sessions Judge as unsatisfactory, but we need not refer to it as it has not formed the basis of any argument before us. We shall therefore deal with these points which have been urged for our consideration by counsel on

both sides.

4. Sanajoba Singh (PW 2) has been examined as the only eyewitness of the alleged incident as, according to the prosecution, his other two associated Dorendro Singh (PW 3) and Raghumani Singh (PW 4) left him when they went ahead of him after he was beaten by the appellant and his associate. Sanajoba Singh (PW 2) has admitted that he, Dorendro Singh and Raghumani Singh, as well as the deceased Ibohal Singh, were friends. The appellant Akoijam Ranbir Singh was, according to Sanajoba Singh, not known to him, and he and his associated beat him a little before the incident of murder, as aforesaid, Sanajoba Singh has stated that Dorendro Singh and Raghumani Singh, thereafter, went a bit ahead of him while Ibohal Singh was standing in the verandah of the Bharat Shoe House when the appellant called for a settlement of the matter and it was suggested by Ibohal Singh that the matter may be settled at that very place. It has been stated that there was an exchange of hot words between the appellant and Ibohal Singh. It appears from the statement of Sanajoba Singh that Dorendro Singh and Raghumani Singh were present at that time. Dorendro Singh and Raghumani Singh, however, claim that they left the place to go to their respective houses. According to Dorendro Singh (PW 3), it was when they reached the crossing of Bir Tikendrajit Road that he saw that Ibohal Singh was lying injured in a rickshaw and Sanajoba Singh was attending on him. That is why they also proceeded to the civil hospital. In these circumstances, it cannot be said to be unreasonable if the Sessions Judge reached the conclusion that the Raghumani Singh (PW 4) would not have left their friend Sanajoba Singh (PW 2) all alone, at the mercy of the appellant, when he had been beaten by the appellant and his associate already in their presence and there was a fresh threat from the appellant. So if an incident had taken place as stated by Sanajoba Singh (PW 2), there was no reason why Dorendro Singh (PW 3) and Raghumani Singh (PW 4) would not have witnessed it.

5. Moreover it will be recalled that the incident took place in the Imphal bazar, at an hour which was not too late in the day, and if it is remembered that Ibohal Singh shouted "thang" when the knife blow was given to him, and then shouted that he was collapsing, it was unlikely that Sanajoba Singh (PW 2) would have remained alone and would not have collected people to help him, or would not have shouted for help to Dorendro Singh and Raghumani Singh.

6. Dorendro Singh (PW 3) stated in the court of the committing Magistrate that when he and Raghumani Singh had already reached the crossing of Bir Tikendrajit Road, they found Sanajoba Singh taking Ibohal Singh in a rickshaw and Sanajoba Singh said that the appellant had stabbed Ibohal Singh with a dagger. The rickshaw was then being followed by several other persons, so that all persons, including Dorendro Singh and Raghumani Singh, came to know very soon after the incident, that it was the appellant who had stabbed the deceased. His name was thus known to them and the others from the very beginning. Dorendro Singh and Raghumani Singh also reached the hospital, and Sanajoba Singh (PW 2) has stated that after Ibohal Singh was declared dead, he narrated the incident to them and said that the culprit was the appellant. That was another occasion when even according to Sanajoba Singh, the name of the assailant was disclosed in unmistakable terms. Dorendro Singh has corroborated this part of the statement of Sanajoba Singh for he has stated that on his inquiry as to who caused the injuries to Ibohal Singh Sanajoba Singh replied that the appellant gave the blows with a "thang" on the road near Pratap Talkies.

7. It will be remembered that it was Dorendro Singh who went to Ibotan Singh (PW 1) to inform him about the incident. By that time he knew the name of the assailant. The Sessions Judge cannot therefore be said to be unreasonable in taking the view that if the name of the appellant had really been disclosed by Sanajoba Singh. Ibotan Singh himself reached the hospital as soon as he learnt

about the incident from Dorendro Singh, and we have it from Sanajoba Singh that Ibotan Singh and others had come to him soon after, near the emergency room. There could be no reason why Sanajoba Singh would not have told Ibotan Singh about the name of the person who had inflicted the fatal injuries on the deceased, and the Sessions Judge cannot be said to be unreasonable if he attached importance to the fact that, even so, the name of the appellant was significantly omitted from the first information report which was lodged by Ibotan Singh soon after, and, on the other had, it was stated that the offence had been committed by somebody and the culprits may be arrested and dealt with.

8. The above were significant infirmities in the prosecution case and it cannot be said that the Sessions Judge was not justified in noticing them.

9. The other point which was noticed by the Sessions Judge was that there was a discrepancy in the evidence of the prosecution about the place of incident, and bloodstains were not found in the verandah of Bharat Shoe House or nearabout it even though Ibohal Singh was said to be standing near the second pillar of the verandah at the time of incident. This infirmity is also there in the prosecution evidence. There is the further fact that although bloodstains were noticed at three places in the bazar, the evidence of the prosecution does not offer any explanation why the blood fell at three places.

10. It has been argued by Mr. Kohli, on behalf of the State of Manipur, that the appellant was not able to explain why Sanajoba Singh (PW 2) should have deposed against him falsely, as there was no enmity between him and Sanajoba Singh, Dorendro Singh and Raghumani Singh. The argument is futile because, as has been stated, it was the case of the prosecution all through that Sanajoba Singh had been given fist blows on the face by the appellant and his associate a little before the incident and the appellant had threatened him again just before the incident. Dorendro Singh and Raghumani Singh were admittedly friends of Sanajoba Singh and the argument is therefore quite unconvincing.

11. It has also been argued by Mr. Kohli that the statement of Sanajoba Singh has been corroborated by the medical evidence inasmuch as two stab wounds were found on the person of the deceased, and bloodstains were found on the road. Reference in this connection has been made to Lyon's "Medical Jurisprudence" to show that a person could run about a hundred yards even after an injury in the heart region. It has been argued that if Sanajoba Singh had not been an eyewitness, he would not have ventured to state that a chase was given by the deceased to the appellant for there was evidence to show that he had been stabbed in the heart. This is however a farfetched argument and it is possible that Sanajoba Singh stated about the chase as it was found that blood was lying at three places on the road. Our attention has also been invited to Sanajoba Singh's statement that it was he who ran to the help of Ibohal Singh soon after he was stabbed by the appellant, and it has been urged that was sufficient to prove his presence at the time of the incident. We find however that Sanajoba Singh admitted in the trial Court that he had stated in the court of the committing Magistrate that it was not only he but Nimai Singh and some other persons who attended on Ibohal Singh when he fell down. The witness disowned that statement, but he could not give any satisfactory explanation for the discrepancy.

12. The Judicial Commissioner has attached considerable importance to the absence of the appellant from his house and has taken the view that the omission of the name of the eyewitness and the accused from the first information report was a minor matter because it was not lodged by an eyewitness but by Ibotan Singh who was 73 years old. The Judicial Commissioner has tried to

explain the discrepancy regarding the place of the incident also. There can be no doubt however that, for reasons stated by us, it could not be said that the finding reached by the Sessions Judge was unreasonable, so as to require interference in appeal. It may be that the Judicial Commissioner has found it possible to arrive at a different conclusion on the basis of the materiel on the record. It may also be that the evidence was sufficient to as has been held by this Court in Mathai Mathews v. State of Maharashtra ((1970) 3 SCC 772), that court not justify a reversal of the finding of acquittal which was based on a proper appreciation of the evidence on the record.

13. The appeal is therefore allowed and appellant Akoijam Ranbir Singh is acquitted. He shall be set at liberty forthwith.

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