

Ram Murti and Another

Vs

State of Haryana

Criminal Appeal No. 288 of 1971

(P.N. Bhagwati, R.S. Sarkaria, Syed M. Fazal Ali JJ)

14.09.1976

JUDGMENT

BHAGWATI, J. -

1. The appellants and three others were tried before the Additional Sessions Judge, Hissar for offences under Sections 148, Section 302 read with Section 149 and Section 323 read with Section 149 of the Indian Penal Code. The gist of the offences charged against the appellants and the other co-accused was that they formed an unlawful assembly with the common object of causing the death of one Khub Ram and assaulting his companion Surja and that in prosecution of such common object, they intentionally caused the death of Khub Ram, and two of the other co-accused voluntarily caused simple hurt to Surja. The prosecution case was supported by the evidence of Surja, who was admittedly an eyewitness to the incident and relying on the evidence of Surja, the learned Additional Sessions Judge convicted the appellants and two of the other co-accused, namely, Kanshi Ram and Mani Ram of the offence under Section 304 Part II read with Section 34 of the Indian Penal Code for causing the death of Khub Ram, and Kanshi Ram and Mani Ram also for the offence under Section 323 read with Section 34 of the Indian Penal Code for causing simple injuries to Surja. The fifth co-accused, namely, Ramji Lal was acquitted by the learned Additional Sessions Judge since the evidence did not establish beyond doubt his participation in the commission of the offence. The appellants and Kanshi Ram preferred an appeal to the High Court of Punjab and Haryana against their conviction and sentence and the State also preferred an appeal challenging the acquittal of the appellants and the other three accused for the offence under Section 302 read with Section 149 or Section 34 of the Indian Penal code. During the pendency of these appeals, Kanshi Ram died and hence he was struck off from the record. The High Court, on a reappraisal of the evidence, rejected the appeal preferred by the appellants but in the appeal of the State, took the view that the appellants were guilty of the offence under Section 302 read with Section 34 of the Indian Penal Code and sentenced each of them to suffer imprisonment for life for this offence. The appellants thereupon preferred the present appeal with special leave obtained from this Court.

2. We have carefully gone through the evidence led on behalf of the prosecution and we do not see any reason to interfere with the concurrent view taken by the learned Additional Sessions Judge and the High Court in regard to the appreciation of such evidence. It is, no doubt, true that there was some delay in the filing of the first information report by Surja and the explanation given for the delay does not appear to be very satisfactory, but that cannot by itself be a ground for disbelieving the prosecution evidence and particularly when it has been accepted both by the learned Additional Sessions Judge and the High Court. We must accordingly hold that the appellants were rightly convicted for causing the death of Khub Ram by causing him injuries. The only question could be as to what was the offence committed by the appellants, whether it was under Section 304 read with

Section 34, or under Section 302 read With Section 34. The High Court took the view that the offence was one under Section 302 read with Section 34, since the injuries caused by the appellants were sufficient in the ordinary course of nature to cause death and the appellants did intend to cause these injuries. We think the High Court was right in taking this view and it is amply supported by the decision of this Court in Virsa Singh v. State of Punjab (AIR 1958 SC 465 : 1958 SCR 1495 : 1958 Cri LJ 818). We do not, in the circumstances, see any reason to interfere with the conviction of the appellants, and if the offence for which they are convicted falls rightly within Section 302 read with Section 34, it is obvious that the life sentence imposed on the appellants, must be maintained.

3. We accordingly confirm the conviction and sentence recorded against the appellants and dismiss the appeal.

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