

Jagat Singh

Vs

State of Haryana

Criminal Appeal No. 248 of 1975

(P.N. Bhagwati, A.C. Gupta, P.N. Shinghal JJ)

04.11.1976

JUDGMENT

GUPTA, J. –

1. Appellant Jagat Singh was convicted by the Additional Sessions Judge, Jind, under Section 302 of the Indian Penal Code and sentenced to death. He was further convicted under Section 324 of the Indian Penal Code and Section 27 of the Arms Act and sentenced to undergo rigorous imprisonment for one year and two years respectively. The High Court of Punjab and Haryana hearing the appeal preferred by Jagat Singh against his conviction and the reference for confirmation of the sentence of death passed on him, maintained his conviction but commuted the sentence of death to one for imprisonment for life. This appeal by special leave preferred by Jagat Singh is limited to the ground whether the offence fell under Section 304 and not under Section 302 of the Indian Penal Code. Jagat Singh was Director of Physical Education in Sir Chhotu Ram College of Education, Rohtak. On February 14, 1973 at 12.40 p.m. Umed Singh, a student of that college, was hit on the chest and right thigh in the college premises by two shots fired in quick succession by Jagat Singh from his gun. Another student, Jagdish Kumar, also received a pellet injury on his left arm. Umed Singh died on way to hospital.

2. The facts leading to the incident are as follows. The management of the college charged the students of 1972-73 batch Rs. 20 each for supplying sportswear. The student felt that what was supplied to them were not with the money they had paid. On February 14, the students stayed away from their classes in sympathy with the striking teachers of another college. A batch of students gathered in the college compound and decided to demand an account from the college authorities. After taking this decision the students went in a body to Chaudhuri Hukam Singh who was acting as principal on that day and asked for accounts. Hukam Singh assured the students that the accounts would be placed before them the next day when the principal of the college was to join duty. As the students insisted on having the accounts produced that very day, Hukam Singh consulted the appellant and informed them that the appellant would render accounts to them. The students then marched in a body to the appellant's office, called him out and demanded accounts. It appears that the appellant managed to go to his residential quarter which was at a distance of about 100 yards from his office and came armed with a 12 bore gun. The plea taken by the appellant was that he was encircled and manhandled by the students and in that melee the gun accidentally went off. This plea was not accepted either by the High Court or the court of sessions.

3. The situation in which the appellant had fired from his gun as recorded by the High Court was like this. The students adopted an "agitational approach" right from the start. A political worker who was not a student was seen addressing the students on the college lawns exhorting them to stay away

from the classes, and the appellant trying to catch him gave him a chase. This infuriated a section of the students who considered the said political worker as their "guest". It was after the incident involving their "guest" that the students adopted an aggressive posture against the appellant. The sportswear about which grievance was made had been supplied to the students about six or seven months before the date of occurrence and the demand for account from the appellant was "raised only as a bogey by the students. . . . to avenge the insult which they thought had been caused to them" by the appellant trying to catch hold of their "guest". One of the slogans raised by the students was "dismiss Jagat Singh". The High Court further found that the prosecution witnesses had concealed the real origin of the incident and what "actually happened when they (students) confronted the appellant". According to the High Court "the students in that agitational mood could not have allowed the appellant to calmly leave for the house as stated by them". The High Court observed further that the appellant was a normal man, in possession of normal faculties and was "not expected to embark upon such a hazardous path to fire shots without any provocation."

4. The circumstances in which the incident had taken place did not, according to the High Court, justify the sentence of death. It seems to us that the circumstances as found by the High Court are not merely a valid ground for commuting the sentence of death to one for imprisonment for life but also bear upon the nature of the offence. In the situation described in the judgment of the High Court it would seem that the appellant brought the gun from his house to protect himself having seen the "aggressive posture" of the students and then, faced with the fury of the students, he lost nerve and fired from the gun. On the findings of the High Court we hold that the case comes under the first part of Section 304 of the Indian Penal Code and not Section 302. Taking all the relevant circumstances into consideration including the fact that the appellant had been under the sentence to death for about a year we think a sentence of rigorous imprisonment for seven years would meet the ends of justice. We order accordingly. The appeal is allowed to the extent indicated above.

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