

Gopal Singh

Vs

State of U. P.

Criminal Appeal No. 593 of 1976

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

04.05.1978

JUDGMENT

SARKARIA, J. -

1. This is an appeal under Article 136 of the Constitution by Gopal Singh against a judgment of the High Court of Allahabad, by which the appellant was convicted under Section 302, Penal Code, for the murder of four persons, and sentenced to death.

2. The following pedigree table will be helpful in understanding the facts relating to this case :

Kunwar Bahadur -----|----- || By 1st wife By 2nd wife -----|--
----- || | Raj Bali Singh Hanuman Singh Beni Madho Singh | (deceased)
(deceased) Gopal Singh (appellant)-----|----- || | Smt. Balraj Kunwar By 2nd By 1st
(deceased) wife : wife : Deoraji Prabhawati (injured) |-----|
|| | Anangpal Singh Raghupal Singh (deceased) | Smt. Sheo Devi (injured) Tunnu
Singh (deceased) ##

3. Dhanpal Singh, co-accused, the maternal uncle of Gopal Singh who was charged under Section 120-B read with Section 302, Penal Code, has been acquitted by the High Court.

4. There was a dispute between the appellant and the descendants of the other branch relating to ancestral property, including some land left by Beni Madho Singh, husband of Smt. Balraj Kunwar, who was one of the victims in the instant case. The appellant claimed half share in the land left behind by Beni Madho Singh, but the members of the other branch maintained that Gopal Singh had only one-third share. Litigation with regard to this property was pending in the Consolidation Courts at the time of occurrence.

5. One day before the occurrence, Gopal Singh constructed a ridge (Mend) in one of the fields admeasuring three and half bighas belonging to Smt. Balraj Kunwar. By constructing that ridge, he divided the field into two equal portions. On the following day at about 10 a.m. Hanuman Singh and his sons Raghupal Singh and Anangpal Singh, the three victims, started demolishing that ridge (Mend). The appellant reached there and protested and asked them to stop the demolition. Raghupal Singh roughly told the appellant to be off. This incensed the appellant who proclaimed that the consequences of the demolition would not be good for them. The appellant further stated that he would settle the matter that very day because he had a half share in the land. Hanuman Singh and his brothers, however, completed the demolition by about noon. The father, returned home at about midday. Anangpal Singh also, on receiving some information that the appellant had procured the

gun from his maternal uncle - Dhanpal Singh, quickly went home. At about 1 p.m. Raghupal Singh after taking his bath, was spreading his Dhoti in the sun; while his father - Hanuman Singh - was taking his meals in a kothari to the west of his court-yard. The prosecution story further is that when all these deceased persons were inside their house, the appellant who lived in a separate apartment of the same building, through the Jhankia of an Attari (watch tower) on the party wall of the houses, fired a shot which hit Raghupal Singh and dropped him dead. Smt. Balraj Kunwar came out of the kitchen and shouted to Gopal Singh not to fire. Gopal Singh fired another shot killing her at the spot. At this moment, Anangpal Singh brought out his licensed gun but in the meantime Hanuman Singh came near the bodies of Raghupal Singh and Smt. Balraj Kunwar, asking Gopal Singh not to fire any more. But, another shot fired by Gopal Singh dropped Hanuman Singh dead. Tunnu Singh, younger, brother of Anangpal Singh also came out to implore the appellant not to fire. He was also shot dead. Smt. Sheo Devi and Smt. Deoraji also came out of their rooms to implore the appellant not to fire any more, but Gopal Singh fired again causing gun shot injuries to these women also. In all, 12 shots were fired by the appellant through the Jhankia of the watch tower into the house of the deceased persons. Anangpal Singh also ineffectively fired his gun toward Gopal Singh. In order to intercept Gopal Singh, Anangpal Singh came out. The appellant fired at him causing gun shot wounds and then decamped. Anangpal Singh scribed the report about the occurrence in his own hand and handed it over to Lallu Singh, a relation, who had come as a guest. Lallu Singh handed over that report in Police Station, Bara, 9 miles away, where on its basis a case was registered at 5.30 p.m. The Investigating Officer reached the scene of murders at 10.45 p.m. and he prepared the inquest reports and examined witnesses. He found 12 empty cartridges in the Jhankia, from where the appellant had fired. Gopal Singh absconded and proceedings under Section 87 and 88 of the Cr. P.C. were taken against him. Dhanpal Singh was also arrested on May 10, 1972 and the gun was thereafter recovered from the workshop of a gun-repairer and taken into custody. The gun was a licensed weapon.

6. We have heard the arguments of the learned Counsel for the appellant at length and have, with his assistance, examined all the evidence on the record, carefully.

7. The main contention of the learned Counsel for the appellant is that the occurrence took place in the night at about 9 or 10 p.m. on May 10, 1972; that some unidentified miscreants had fired causing these deaths and that the appellant has been falsely implicated on account of suspicion. In support of this contention, reference was made to the cross-examination of Dr. V. B. Sahai, wherein he had stated that there could be possibility of the death in case of the deceased having taken place at about 8 or 9 p.m., if he had taken the semi-digested food found in his stomach, between 12 and 1 O'clock.

8. As rightly observed by the High Court, much capital could not be made out of it. In examination-in-chief, the doctor had stated that the death of Hanuman Singh might have occurred on May 10, 1972 at about 1 O'clock in the day. The same was his statement with regard to the deaths of Tunnu Singh, Smt. Balraj Kunwar and Hanuman Singh. In this connection, the Medical Officer had further stated that there could be a margin of 8 to 12 hours, either way, with regard to the time of the deaths indicated by him in the postmortem reports (Exs. 'Kha' - 70 and 'Kha' - 73) with regard to Raghupal Singh, Tunnu Singh, Balraj Kunwar and Hanuman Singh.

9. It was further pointed out that the First Information Report was not recorded at about 5.30 p.m. on May 10, 1972, but on the following morning with the assistance of the Investigating Officer. Stress has been placed on the fact that there was delay in sending the special reports to the Magistrate, that the number of the FIR was not given in the inquest report etc.

10. These contentions were raised before the High Court also, and were rejected. We do not want to repeat the same reasoning. Suffice it to say that we entirely agree with the same. There could be no doubt that the murders were committed in a broad day-light at about noon. The assailant was not a stranger. The appellant had a strong and seething motive to commit these murders. He was incensed because of the demolition of the Mend by the deceased witnesses only a couple of hours earlier.

11. The mainstay of the prosecution case was the ocular account given by the two injured persons, namely, Smt. Deorji and Anangpal Singh. They had gun-shot injuries which were the hall-marks of their presence at the scene of occurrence. True, they were interested witnesses, related to the deceased. Far from undermining the circumstances of the case, it guaranteed the truth of their testimony. Being relations, they would be the least disposed to falsely implicate the appellant, or substitute him in place of the real culprit. In short, the murder charges had been proved to the hilt against the appellant.

12. As regards the sentence, this is a case of quadruple murder. The intention of the appellant was to wipe out the entire branch of the family with which he had a land dispute. The murders were committed in a most brutal fashion. Even the child Tunnu Singh, and the women were not spared. There is no extenuating circumstance. The appellant was rightly awarded the capital sentence.

13. In the result, the appeal fails and is dismissed.

</html