

Pappu Alias Baijnath

Vs

State of U. P.

Criminal Appeal No. 218 of 1973

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

21.07.1978

JUDGMENT

SARKARIA, J. -

1. The appellant Pappu alias Baijnath, Jagannath and others were tried by the Sessions Judge, Gorakhpur on various charges related to the murder of Markandey Dhar Dubey.
2. The incident occurred in broad day-light when athletic sports were going on in the ground of Government Normal School, Gorakhpur. A large number of spectators and the District Inspector of Schools was also present. At about noon on November 13, 1968, the deceased Markandey Dubey was seen coming from the eastern side towards the race course, hotly chased by the appellant and five others. The pursuers overtook the deceased. The appellant then stabbed Markandey Dubey with a knife on the chest, as a result of which he dropped to the ground and died there and then.
3. The trial Judge found that it was the appellant Pappu who had caused the fatal injury to the deceased with a knife and convicted and sentenced the appellant under Section 302. IPC to imprisonment for life. The co-accused Jagannath was also convicted and sentenced under Section 302 IPC read with Section 149 IPC. On appeal, the High court maintained the conviction of these two persons holding that there was no doubt that this solitary, fatal injury to the deceased was inflicted by Pappu alias Baijnath, appellant.
4. This Court granted special leave to appeal under Article 136 limited to the nature of offence and sentence only.
5. We have heard the counsel on both sides. It is clear from the testimony of Dr. Brajendra Kumar who conducted the autopsy that there was a punctured wound 1-1/2 x 1/2' inch cavity deep, both edges sharp and curved, both ends tapering on the left side of the chest of the deceased. On opening of the body, the Doctor found that this wound was going deep into the heart cutting the auricle and root of the aorta. In the Doctor's opinion, this injury was certainly sufficient in the ordinary course of nature to cause death. The appellant's case does not fall under any of the Exceptions in Section 300IPC. He deliberately caused an injury on the most vital part of the body, which was necessarily fatal. The appellant was, therefore, rightly convicted under Section 302 IPC.
6. The appeal fails and is dismissed.

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