

Sher Singh and Another

Vs

State of Punjab

Criminal Appeal No. 151 of 1972

(P. S. Kailasam, A.D. Koshal JJ)

17.11.1978

JUDGMENT

KOSHAL, J. -

1. For attempting to murder Rajinder Kaur, aged 20 years and a resident of village Pathreri Jattan in District Ropar, her father Sher Singh and the latter's wife and brother named Shakuntala Devi and Gurdial Singh respectively, were tried by an Additional Sessions Judge for an offence under Section 307 of the Indian Penal Code. The trial Court gave Shakuntala Devi the benefit of doubt but convicted each of the other two accused of the offence with which he was charged and sentenced him to rigorous imprisonment for three years and a fine of Rs. 100, the sentence in default of payment of fine being rigorous imprisonment for a month. An appeal instituted by the two convicts was dismissed by a single Judge of the High Court of Punjab and Haryana whose judgment dated November 26, 1971 is challenged in this appeal by special leave.

2. The following pedigree table lends assistance in appreciating the facts of the case :

# Dhera Singh		-----		Sher Singh Gurdial
Singh		-----		Labh Kaur - (Appellant 1)-Shakuntala Devi (Appellant 2)(PW 3) (acquitted
accused)		-----		accused) -----
		Balbir Kaur Rajinder Kaur Jaswant Kaur (married) (PW 1) (PW 2)##		

3. The prosecution case may be stated thus. Labh Kaur gave birth to her three daughters from the loins of Sher Singh appellant. About 20 years before the occurrence, which is said to have taken place on June 28, 1970, Sher Singh appellant took another wife named Shakuntala Devi and thereafter neglected his daughters and their mother, who continued to live in village Pathreri Jattan while Sher Singh appellant, who was in Government employment as an Overseer, lived with his second wife at his various places of posting.

4. On June 27, 1970, Sher Singh appellant and Shakuntala Devi accused came to village Pathreri Jattan and stayed with Gurdial Singh appellant. The former was told by his first wife Labh kaur (PW 3) that her two unmarried daughters had grown up and that it was time that their father took steps to arrange for their marriages. Sher Singh appellant said that he would take with him both Rajinder Kaur and Jaswant Kaur.

5. On the morning of June 28, 1970, Sher Singh appellant took away his two daughters on the plea that they were to accompany him to place of posting. Gurdial Singh appellant and Shakuntala Devi accused also accompanied the party which was followed by Labh Kaur (PW 3) who wanted to see

her daughters off. When the party reached the Bhakra Canal, Sher Singh appellant caught hold of Rajinder Kaur (PW 1) by her hands and Gurdial Singh appellant by her legs while Shakuntala Devi assisted them by holding the head of the girl who was then flung into the canal. Jaswant Kaur (PW 2) rushed back and raised an alarm in which her mother joined her. Ajmer Singh (PW 4) who was easing himself nearby ran to the scene of occurrence, jumped into the canal, caught hold of the drowning girl by the neck and brought her out of the canal with the help of a turban which Fateh Din (PW 5) made available.

6. Rajinder Kaur (PW 1) was found to be unconscious but regained her senses soon afterwards and walked back with her mother and sister to the village, the three culprits already having made good their escape.

7. No report was made to the police about the incident till the next day when A. S. I. Hardev Singh (PW 7) visited village Pathreri Jattan late in the afternoon and was handed over a written statement (Ex. PA) which Rajinder Kaur (PW 1) had scribed and signed, accusing her father, her uncle and her step-mother of having thrown her into the canal in the manner above described. That statement forms the basis of the First Information Report.

8. Nine witnesses were produced at the trial in support of the prosecution case. Rajinder Kaur (PW 1), Jaswant Kaur (PW 2) and Labh above. Ajmer Singh (PW 4) testified to having rescued Rajinder Kaur (PW 1) from the canal with the help of a turban thrown to him by Fateh Din (PW 5). In this he was corroborated by Fateh Din (PW 5) himself who further claimed to have seen the three accused running away from the spot.

9. The defence was a complete denial of the allegations made by the prosecution and a plea of false implication. Shakuntala Devi accused claimed to have had an altercation with Labh Kaur (PW 3) over the plucking of mangoes from the orchard owned by Sher Singh appellant and his brothers on June 28, 1970 and that incident, according to the accused, motivated their prosecution.

10. The learned trial Judge found the evidence of the two girls, their mother and the two rescuers to be fully trustworthy except insofar as it related to the part ascribed to Shakuntala Devi accused, in relation to which he expressed the opinion that when the girl had been caught hold of by her hands and feet by the two appellants there was no point in Shakuntala Devi lending a helping hand by holding the head of the victim. In the result, therefore, he acquitted Shakuntala Devi of the charge and convicted and sentenced the appellants as aforesaid. The High Court concurred with the findings of the trial Court insofar as the two appellants are concerned.

11. After hearing learned Counsel for the appellants we find no reason at all to differ with the judgment of the High Court in any material detail. The victim is none else than the daughter of one of the appellants and the niece of the other. No acceptable ground has been put forward in support of the argument that the story given by her is untrustworthy. Besides, her deposition finds full support not only from the testimony of her sister and mother but also from that of two wholly independent witnesses, namely, Ajmer Singh (PW 4) and Fateh Din (PW 5) according to both of whom she was rescued by them from the canal on the morning of the day of the occurrence. Fateh Din (PW 5), as already stated, has also averred that he had seen the three accused running away from the place of occurrence at the time of the rescuing operation. The word of Ajmer Singh (PW 4) and Fateh Din (PW 5) carries full conviction with us as it did with the two courts below and provides important corroboration to the story given by Labh Kaur (PW 3) and her two daughters.

12. Learned Counsel for the appellant has tried to make much of some discrepancies none of which we find to be of any real significance. Nor do we attach any importance, in the circumstances of the case, to the fact that the police was not contacted till the evening of the day next to that of the occurrence. It may be that the attempt at murder left Labh Kaur (PW 3) and her two daughters so shocked as to make them incapable for quite some time of taking an intelligent decision as to whether they should report the matter to the police or not, the culprits being their close relations and Rajinder Kaur (PW 1) having after all escaped the intended consequence of the crime. If the prosecution case was a concoction and Rajinder Kaur (PW 1) had merely tried to act the part of a victim of an attempt at murder, she was taking too much risk insofar as her life itself was concerned. Besides, in that case she would not have delayed the lodging of the report for more than 30 hours but, on the other hand, would have hastened to contact the police soon after her simulation of the tragedy. And then there is no good reason for her and the other prosecution witnesses to falsely implicate her father and uncle. It is true that Sher Singh appellant had neglected his first wife and her children for long and it may well be that Gurdial Singh appellant supported his attitude towards them. But then neither Labh Kaur (PW 3) nor her daughters had ever made any attempt to claim maintenance from Sher Singh appellant, to provide which he was legally bound. It does not appear in this background that one fine morning, Labh Kaur (PW 3) and her daughters would enter into a conspiracy to make Rajinder kaur (PW 1) plunge into the canal and thus endanger her life for the sake of falsely implicating the appellants in a case for an attempt to murder her.

13. For the reasons stated the conviction of the appellants is upheld. We do not find the sentences also to be severe and maintain the same. In the result therefore the appeal is dismissed and the judgment of the High Court is affirmed.

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