

Piara Singh and Others

Vs

State of Punjab

Criminal Appeal No. 95 of 1974

(Syed M. Fazal Ali, A. D. Koshal JJ)

18.01.1980

JUDGMENT

FAZAL ALI, J. –

1. This appeal by special leave is directed against the order of the High Court of Punjab by which confirming the conviction of the appellants under Section 304 Part I the High Court reduced the sentence from 10 years to 7 years' RI.

2. The facts of the case are detailed in the Judgment of the High Court and it is not necessary for us to repeat them all over again. It appears that on March 5, 1972, at 6.30 p.m., there was some altercation between the deceased and the accused as a result of which the 4 caused persons viz., Bhag Singh, Piara Singh, Mit Ram and Bansi Lal entered into the house of the deceased Sarwan Singh and assaulted him with toki, grandhali, bahola and kirpan. The doctor found as many as 24 injuries on the person of the deceased. The doctor also was of the opinion that the injuries caused to the deceased were sufficient in the ordinary course of nature to cause the death of the deceased. The prosecution examined PWs 3, 4 and 5 viz. Harbhajan Lal, the widow and the nephew of the deceased to prove the murderous assault on the deceased. Both the courts below accepted the evidence of these three witnesses who were very natural witnesses because being the members of the family they were expected to be present in the house where the occurrence took place. We are unable to find any error of law in the judgment of the High Court. On the other hand we feel that this was a clear case of murder where the four accused persons battered the deceased to pieces and killed him intentionally. The appellants were however fortunate in escaping conviction under Section 302 and they should thank their stars for the same. It is rather unfortunate that the State of Punjab did not consider it necessary to file an appeal against the acquittal of the appellants under Section 302. However, Mr. Hardev Singh strongly contended that the appellants, having been released on bail on April 15, 1975 (and they have done about 3 years) should not be sent back to jail because they are the only bread earners of the family. There can be no doubt that the offence committed by the appellants is a very serious one and the sentence given to them is extremely lenient, hence we find absolutely no room for any further reduction in the sentence. For these reasons, therefore, the appeal fails and is accordingly dismissed. The appellants must now surrender and serve out the remaining portion of the sentence.

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