

Nand Singh and Others

Vs

State of Punjab

Criminal Appeal No. 139 of 1975

(R. S. Sarkaria, O. Chinnappa Reddy JJ)

11.09.1980

JUDGMENT

CHINNAPPA REDDY, J. –

This is an appeal under the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970. The appellants were tried by the learned Additional Sessions Judge, Barnala for offences under Sections 148, 302 read with Section 149, IPC and other cognate offences for causing the death of Sajjan Singh and Gurdial Singh and for the injuries cause to Harbans Singh, Bakhtawar Singh and Chamkaur Singh. They were acquitted by the learned Additional Sessions Judge but on appeal by the State, they were convicted of the several offences with which they were charged and awarded appropriate sentences by the High Court. In this appeal Mr. Hardayal Hardy has submitted that the view taken by the learned Additional Sessions Judge could not be said to be on unreasonable as to warrant interference by the High Court. He made a special plea in regard to Singh, appellant 3 and submitted that he had no particular enmity with the deceased, and no particular reason to join the other five accused in committing the offences. Sri Hardy has also taken us through the relevant evidence. Having perused the judgment of the learned Sessions Judge and the High Court and having considered the relevant evidence we are of the view that the High Court was entirely justified in interfering with the order of acquittal. The two predominant circumstances on which the acquittal was based were that there was delay in making the report and that the alleged eyewitnesses were not present at the scene of occurrence. In regard to the second circumstance we are unable to see how the learned Additional Sessions Judge could possibly come to conclusion that the witnesses, who had themselves received injuries were not present. Of them Harbans Singh, PW 3, received a very serious injury, an incised wound, 16 cm x 5 cm x 1 cm bone deep in the temporo-parietal region of the head. The bone under-neath was chipped and there was a fracture. It is inconceivable that an injury of that nature could have been self-inflicted as imagined by the learned Sessions Judge. Apart from that injury there were 9 other injuries on Harbans Singh. Bakhtawar Singh also received a serious injury, 'an incised wound 15 cm x 5 cm x muscle deep on the front and lateral side of the right forearm. Chamkaur Singh also had received five injuries. Having regard to the injuries received by them their presence cannot possibly be doubted. Bearing in mind the circumstances that the witnesses are of a partisan character, we have carefully scrutinised their evidence. We find that nothing has been elicited in their cross-examination which would offer any justification for rejecting their evidence. The total number of injuries found on the two deceased persons and the three injured persons is 70. The large number of injuries and the number of persons who were injured establish that a large number of assailants must have taken part in the occurrence and this lends considerable assurance to the evidence of the three eyewitnesses. In regard to the alleged delay in making the report the witnesses have explained that members of the opposite faction were roaming about the village, holding our threats and so they were afraid to come out. The

evidence of the investigating officer also shows that nobody in the village was prepared to come forward. The delay in the special report reaching the magistrate has been explained by constable Karnail Singh. It appears that after the special report was handed over to him, he went to the office of Deputy Superintendent of Police, Barnala and reported to Deputy Superintendent of Police and then proceeded to Sangrur where he handed over the special report to the Reader of Superintendent of Police. The Reader of Superintendent of Police pointed out to him that one envelope had to be handed over to the Ilaqua Magistrate at Barnala and he should therefore go back to Barnala. Accordingly, he went back to Barnala and handed over the papers to the Ilaqua Magistrate at his residence. We agree with the High Court that the delay has been adequately explained. We are therefore in agreement with the High Court that the trial Court was wrong in acquitting the accused. We do not think it necessary to enter into a detailed discussion as we are affirming the judgment of the High Court. The special plea put forward by Mr. Hardy on behalf of Pala Singh is also without substance. The fact that pala Singh had no special enmity with the deceased and the others of his group is a circumstance which also leads to the conclusion that the prosecution witnesses have not special reason to falsely implicate Pala Singh. On the material before us, there cannot be any doubt that Pala Singh is also equally guilty. The appeal fails and is accordingly dismissed.

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