

Basant Singh

Vs

State of Punjab

Criminal Appeal No. 291 of 1974

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

23.09.1980

JUDGMENT

1. We have heard the learned counsel both sides. Basant Singh, appellant was convicted by the Sessions Judge, Kapurthala under Section 302, Indian Penal Code for the murder of his co-villager, Jassa Singh. The High Court dismissed Basant Singh's appeal. He has now come in appeal to this Court by leave under Article 136 of the Constitution.
2. The prosecution story was that on August 22, 1970, the appellant induced the deceased to go with him to the house of Amar Nath (PW 18) in the village of (sic) where a jagraata was being held. The appellant and the deceased were seen at the jagraata up to 3 a. m. when the gathering dispersed. The appellant then induced the deceased to go with him to the farmer's tube-well for spending the night there. Thereafter, the deceased disappeared. After making a futile search for the deceased, Puran Singh (PW 13) brother of the deceased lodged a report at Police Station, Sadar, Kapurthala on August 24, 1970 whereupon a case under Section 364, Indian Penal Code was registered against the appellant which subsequently on the recovery of the dead body of Jassa Singh, was altered into one under Section 302, Indian Penal Code.
3. The conviction of the appellant rests entirely on circumstantial evidence. The main circumstances which have been accepted, as established, by the courts below are as follows :
 - (1) The first circumstance is three-fold : (a) At about 8 or 9 p. m. on August 22, 1970, the appellant called and took away the deceased from the latter's house to the jagraata (a religious vigil) which was being held in the house of Pandit Amar Singh (PW 8) in the village; (b) Thereafter, up to about 3 a. m., the appellant and the deceased were seen together in the congregation at the house of Amar Nath till about 3 a. m. when it started drizzling and the gathering started dispersing; (c) At about 3 or 3.30 a. m. the appellant asked the deceased to accompany him to his tube-well for spending the night there and then both of them proceeded towards the tube-well of the appellant. Evidence in regard to (a) was given by Puran Singh (PW 13) who was joint in residence with the deceased. Regarding fact (b), the evidence was furnished by Amar Nath (PW 8) and Teja Singh (PW 12). Evidence regarding (c) was rendered by PW 12. Sadhu Singh (PW 10) deposed to this fact but this evidence has not been relied upon by the High Court.
 - (2) The dead body of the deceased was found buried in a pit adjacent for the tube-well of the appellant, on August 25, 1970 by Police Sub-Inspector, PW 3 in the presence of PWs, Teja Singh, Puran Singh, and one Mohan Singh. The memorandum

Ex. PG was prepared in this behalf.

(3) Recovery of blood-stained dagger Ex. P-4 at the instance of the appellant from the sugar-cane field where it lay buried. According to the report of the Serologist there was human blood on this dagger (Ex. P-4). Labh Singh (PW 6), who attested the memo Ex. PG, and the Sub-Inspector (PW 15) deposed to this fact.

(4) Blood was noticed on the bean (warp and woof) of a charpai found lying in the shutterless kothe of the appellant's tube-well on August 24 by Head Constable Jagdish Chander, PW 14. Blood-stained earth was also seized from the round underneath that charpai. The Chemical Examiner and Serologist has reported that the baan and the earth sent to him were stained with human blood.

(5) The appellant absconded after the occurrence and remained in abscondance till his arrest on August 29, 1970. When this circumstance was put to be accused during his examination under Section 313, Criminal Procedure Code, he gave a false explanation that he had gone away to his sister's village Harimpur on August 20, 1970 and returned to his village on August 26, 1970.

4. We have examined carefully the evidence of the prosecution witnesses relating to the above enumerated circumstances. We are of opinion that the courts below were right in holding that the evidence of the witnesses was creditworthy and these circumstances had been fully established. We are further satisfied that these circumstances unerringly point to be conclusion that within all human probability, the murder of Jassa Singh was committed by the appellant and none else. We, therefore, uphold the conviction and sentence of the appellant and dismiss his appeal.

</html