

Jagtar Singh

Vs

State of Punjab

Criminal Appeal No. 81 of 1983

(D.A. Desai, A.N. Sen JJ)

14.02.1983

ORDER

1. Special leave granted limited to the question of nature offence and sentence.
2. Appellant has been convicted for an offence under Section 302 and under Section 324 of the Indian Penal Code, and has been sentenced to suffer imprisonment for life and imprisonment for one year respectively. Substantive sentences have been directed to run concurrently.
3. On March 30, 1981 around 1.45 p. m. deceased Narinder Singh accompanied by Romesh Kumar was proceeding towards Nandan cinema. When they were passing in front of the house of the appellant accused Jagtar Singh, deceased Narinder Singh was injured by the projecting parnala of the house of the appellant. Deceased Narinder Singh protested to the accused and asked him to raise the height of the parnala here was exchange of abuses. In this background, appellant and Joginder Singh caught hold of Narinder Singh and on being investigated by Joginder Singh, the appellant Jagtar Singh gave one blow with knife which landed on the chest of deceased Narinder Singh. After sometime Narinder Singh succumb to his injury. The appellant has also caused injury to the companion of deceased Narinder Singh.
4. The learned Sessions Judge convicted the appellant for the aforementioned offences and sentenced him as stated above. After an unsuccessful appeal to High Court, appellant has approached this Court under Article 136.
5. The only question that we are called upon to examine in the facts and circumstances of this case is whether the appellant could be said to have committed murder of deceased Narinder Singh punishable under Section 302 of the Indian Penal Code.
6. A quarrel took place on the spur of the moment. The appellant never expected to meet the deceased. When the deceased was just; passing by the road in front of the house of the appellant, his forehead dashed with the parnala of the house of the appellant which provoked the deceased to remonstrate the appellant. It is in evidence that there was exchange of abuses and at that time appellant gave a blow with a knife which landed on the chest of the deceased.
7. Undoubtedly, PW 2 Dr. H. S.Gill opined that the blow on the chest pierced deep inside the chest cavity resulting in the injury to the heart and this injury was sufficient in the ordinary course of nature to cause death. The question is whether in the circumstances in which the appellant gave a blow with knife on the chest, he could be said to have intended to cause death or he could be imputed the intention to cause that particular injury which has proved fatal? The circumstances in

which the incident occurred would clearly negative any suggestion of premeditation. It was in a sudden quarrel to some extent provoked by the deceased, that the appellant gave one blow with a knife. Could it be said that para 3 of Section 300 is attracted. We have considerable doubt about the conclusion reached by the High Court. We cannot confidently say that the appellant intended to cause that particular injury which is shown to have caused death. There was no premeditation. There was no malice. The meeting was a chance meeting. The cause of quarrel though trivial was just sudden and in this background the appellant, a very young man gave one blow. He could not be imputed with the intention to cause death or the intention to cause that particular injury which has proved fatal. Neither para 1 nor para 3 of section 300 would be attracted. We are fortified in this view by the decision of this Court in Jagrup Singh v. State of Haryana (1981) 3 SCC 616 : 1981 SCC (Cri) 768 : (1981) 3 SCR 839 : 1981 Cri LJ 1136). It was subsequently followed in Randhir Singh v. State of Punjab (1981) 4 SCC 484 : 1981 SCC (Cri) 856) and Kulwant Rai v. State of Punjab (1981) 4 SCC 245 : 1981 SCC (Cri) 826) . Following the ratio of the aforementioned decisions, we are of the opinion that the appellant could not be convicted for having committed murder of the deceased Narinder Singh. His conviction for an offence under Section 302, IPC and sentence of imprisonment for life are liable to be set aside.

8. The next question is what offence the appellant is shown to have committed? In a trivial quarrel the appellant wielded a weapon like a knife. The incident occurred around 1.45 noon. The quarrel was of a trivial nature and even in such a trivial quarrel the appellant wielded a weapon like a knife and landed a blow in the chest. In these circumstances, it is permissible inference that the appellant at least could be imputed with a knowledge that he was likely to cause an injury which was likely to cause death. Therefore, the appellant is shown to have committed an offence under section 304 part II of the IPC and a sentence of imprisonment for five years will meet the ends of justice.

9. Accordingly this appeal is partly allowed. The conviction of the appellant for an offence under Section 302, IPC and sentence of imprisonment for life are set aside. Appellant is convicted for having committed an offence under Section 304 Part II of the Indian Penal Code and he is sentenced to suffer RI for five years. Conviction of the appellant for an offence under section 304 and the sentence imposed for the same are confirmed. Both the substantive sentences are directed to run concurrently.

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