

Sital Singh

Vs

State of Punjab

Criminal Appeal No. 590 of 1982

(V. B. Eradi, M. P. Thakkar, Ranganath Misra, JJ)

05.04.1983

JUDGMENT

RANGANATH MISRA, J. –

1. This appeal by special leave is directed against the confirming judgment of the Punjab & Haryana High Court upholding the conviction of the appellant for offences punishable under Section 302 and 324 of the Indian Penal Code and sentences of imprisonment for life and a fine of Rs 2000, in default rigorous imprisonment for two years and a fine of Rs 500 with a default sentence of rigorous imprisonment for six months in three sets with a direction that the sentence of imprisonment would run concurrently.

2. One Gurdial Singh and his three sons - Sital Singh, Avtar Singh and Narvail Singh were put on trial on the charge of murder of one Baldev Singh and for causing injuries to several others. Prosecution alleged that at about 8 p.m. on March 27, 1980, Harbhajan Singh (PW 3), his two sons - Baldev Singh (deceased) and Balvinder Singh, and some others who were near the tube-well were returning to their respective houses. On the way near the village primary school, the accused persons who were armed with firearms and a spear met them. Avtar Singh started abusing Harbhajan Singh for helping one Balkar Singh in getting released on bail in a proceedings under Section 107 of the Code of Criminal Procedure. Mutual threats followed and soon Sital Singh fired a shot at Baldev Singh which hit him below the abdomen. Avtar Singh fired from his pistol which hit Baldev Singh on the back and he fell down. Gurdial and Sital fired from their guns and injured many others. Baldev died on the way to hospital.

3. Defence was one of complete denial of the charges. The trial court acquitted Narvail Singh on benefit of doubt and convicted the three others under Sections 302 and 324, IPC. On appeal, the High Court acquitted Gurdial Singh by doubting his presence at the incidental and acquitted Avtar Singh in respect of the charge under Section 302, IPC. The appeal of Sital Singh was dismissed and he has come up to this court challenging his conviction.

4. Special leave was confined to consideration of the nature of the offence and the quantum of sentence.

5. The medical evidence indicates that the gunshot hit the deceased on the upper right thigh. That also was the statement in the First Information Report. The High Court has recorded a clear finding that there was no premeditation. Mr Mulla has taken us through the relevant evidence for supporting his submission that this is not a case where charge of murder can be sustained. On the material placed, we are of the view that it would be just and proper to vacate the conviction under Section

302 and in lieu thereof convict the appellant under Section 304 Part I, of the Penal Code. Keeping in view the nature of the offence, the setting in which the incident took place and the age of the appellant (he was 19 at the time of the occurrence), we consider that a term of 7 years' rigorous imprisonment would meet the ends of justice. The sentence of fine courts below shall be sustained as a punishment for the offence under Section 304 Part I. The conviction and sentence for the offence under Section 324, IPC are also sustained, in view of the direction of the courts below that the fine, if realised, would be paid by way of compensation to the bereaved family. The appeal is disposed of with the modification of conviction and sentence indicated above.

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