

Punjab Singh

Vs

State of Haryana

Karnail Singh

Vs

State of Haryana

Criminal Appeals Nos. 150 and 151 of 1984

(D. A. Desai, Ranganath Misra JJ)

15.03.1984

ORDER

1. Special leave granted in both the matters.

2. We first take up the case of Punjab Singh. Miss Lily Thomas, learned counsel for the appellant contended that Punjab Singh had not participated in the assault on the deceased. PW 5, PW 6 and PW 8 - clearly state in their evidence that Punjab Singh gave a gandasa below to the deceased. This evidence has been accepted by both the courts. The only contention raised was that medical evidence is inconsistent with the direct testimony. This contention must fail for two reasons :

(i) that if direct evidence is satisfactory and reliable the same cannot be rejected on hypothetical medical evidence; and

(ii) as pointed out by Mr K. G. Bhagat, learned Additional Solicitor-General appearing for the State of Haryana, that if medical evidence is properly read, it only shows two alternative possibilities but not any inconsistency. That appears to be correct. That is the only point pressed in favour of Punjab Singh. Miss Lily Thomas, learned counsel for the appellant contended that Punjab Singh is a young man and he is a college going student and that some consideration may be shown to him. We are satisfied that no case is made out for compassionate approach when the deceased has been done away. The appeal of Punjab Singh fails and is dismissed.

3. We next take up the case of Karnail Singh. Mr K. G. Bhagat, learned Additional Solicitor-General conceded that the conviction of the appellant under Section 302 read with Section 34, IPC cannot be sustained but on the evidence placed on record, he can be convicted only for an offence under Section 326. We read the evidence and are satisfied that the concessions is in tune with the evidence and discloses a fair approach of learned counsel appearing for the prosecution. Accordingly, the conviction of the appellant Karnail Singh for the offence under Section 302 read with Section 34, IPC and sentence of life imprisonment imposed upon him are quashed and set aside. Karnail Singh is however, convicted for an offence under Section 326, IPC and is sentenced to suffer rigorous imprisonment for three years.

4. The appeal of Karnail Singh is partly allowed to the extent herein indicated.

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