

Dalip Singh and Others

Vs

State of Punjab

Criminal Appeal No. 188 of 1977

(Ranganath Misra, A. N. Sen JJ)

18.09.1985

JUDGMENT

RANGANATH MISRA, J. -

1. The four appellants were put on trial for offences punishable under Sections 148, 302/149, 307/149 of the Indian Penal Code. Prosecution alleged that they along with one Piara Singh, since murdered, had collected themselves fully armed near a culvert on the Ludhiana-Ahmedgarh road at about 1 p.m. on April 16, 1971. The complainant's group was returning from Ludhiana in a jeep driven by PW 10 after purchasing a tyre and a tube for Bachan Singh's truck. Bachan Singh was sitting on the back side of the jeep and in front of him was sitting one Malkiat Singh, PW 9. Gurbachan Singh, PW 11 was sitting next to him. As the jeep approached the culvert on the way, Amrik Singh started firing from his gun. Then followed indiscriminate firing by the other appellants as a result of which Bachan Singh received fatal injuries. Gurbachan Singh also received a gunshot injury on his right arm and fortunately for the driver he was hit on his turban and was, therefore, not injured. The driver speedily drove away the jeep and medical treatment was provided but Bachan Singh succumbed to the injuries while PW 11 survived.

2. The defence was one of denial and false implication. At the trial PWs, 9, 10 and 11 were examined as eyewitnesses and the trial court relied upon their evidence as also the medical and circumstantial evidence available on record and convicted the appellants for the offences charged and sentenced them to one year's rigorous imprisonment under Section 148 and imprisonment for life and a fine of Rs. 2000 each under Section 302/149, IPC and directed that the sentences shall run concurrently. In appeal there was a review of the evidence and the High Court was satisfied that the witnesses were reliable and the prosecution had proved its case beyond doubt. Accordingly, the High Court dismissed the appeal.

3. This appeal has been filed on special leave from this Court. At the hearing Mr. Frank Anthony mainly pressed the point that the evidence was not very clear as to whether a rifle in the hands of Amrik Singh or 12 bore guns in the hands of the other accused persons had really been used for causing the injuries. According to him there is confusion as to which of the firearms had been used for causing the injuries on the deceased as also PW 11. This aspect had not been pressed at the earlier stages and it is a new contention advanced. Besides, the accused persons were on the wayside culvert and the jeep was on its move on the road. The firing started some what suddenly and in these circumstances there is possibility of mistake as to whether it was a rifle or the other guns that had been put to service. This contention, however, does not impress us inasmuch as the oral evidence is very clear and is fully corroborated by the medical evidence. We agree with the High Court that the appellants along with Piara Singh had formed themselves into an unlawful assembly with the

common object of fatally injuring the deceased and members of his party. There is clear motive and once we reject the sole contention advanced by Mr. Frank Anthony, the appeal has no merit and has to be dismissed. We accordingly dismiss the appeal and confirm the conviction and sentence of the appellants.

</html