

Jaspal Singh

Vs

State of Punjab

Criminal Appeal No. 191 of 1985

(V. Balakrishna Eradi, B. C. Ray JJ)

03.02.1986

JUDGMENT

BALAKRISHNA ERADI, J. -

1. This is an appeal by special leave against the judgment of the High Court of Punjab and Haryana dismissing the appeal filed by the appellant herein, against his conviction by the Additional Sessions Judge, Patiala under Sections 302 and 307 Indian Penal Code.

2. Hazur Singh (PW 5) had two sons, Devinder Pal Singh (deceased) and Virender Pal Singh (PW 6). The appellant Jaspal Singh had taken a loan of Rs 1500 from the deceased Devinder Pal Singh sometime prior to the date of the occurrence which led to the present prosecution. On July 16, 1983 at about 7.30 p.m. Devinder Pal Singh and Virender Pal Singh (PW 6) left their house for an evening walk. When they came towards the market area where the appellant was running a restaurant the deceased called the appellant out of his business premises on to the road and demanded a return of his money. Apparently the appellant did not relish this and he abused the deceased whereupon the deceased protested against the said conduct of the appellant. This led to an altercation, in the course of which the deceased is said to have pushed the appellant resulting in the appellant falling down on the road. In the meantime Hazur Singh (PW 5) and one Jaswant Singh came to the place. The appellant then gave a stab with a knife on the groin of Devinder Pal Singh and another knife blow on his back behind the chest. The deceased Devinder Pal Singh fell on the ground on receiving the injuries. His brother Virender Pal Singh (PW 6) tried to intervene. Thereupon the appellant gave knife blows to him also causing injuries on his left shoulder and groin. He too, fell down. Hazur Singh (PW 5) and Jaswant Singh who were eyewitnesses to the occurrence rushed forward but the appellant managed to run away with his knife. Hazur Singh (PW 5) hurriedly brought a car from his residence and removed both his injured sons to the Rajinder Hospital, Patiala but Devinder Pal Singh succumbed to his injuries before he could reach the hospital. Virender Pal Singh was admitted in the hospital. Thereafter Hazur Singh went to the Police Station, Civil Lines, Patiala and lodged the first information report at 9.45 p.m.

3. The post-mortem examination on the dead body of Devinder Pal Singh disclosed that he had sustained the following injuries, all of which were ante-mortem :

1. Stab wound 2 cm x 2.2 cm on the back of left side of chest, 2 cm below and 2 cm medial to inferior angle of left scapula oblique.
2. A stab wound 2 cm x 1 cm x 8 cm on the front of right groin region in its middle, 10 cm from the symphysis pubic. On dissection of wound, blood was found present in

the underlying structure. Direction of the stab was upwards and medially. Femoral artery and femoral vein corresponding to the stab were cut.

3. An abrasion on 2.5 cm x 1 cm on the left side of forehead.

4. An abrasion 1 cm x 8 cm on the right side of nose.

Injury No. 2 had ruptured the femoral artery as well as the femoral vein and in the opinion of the doctor, the shock and haemorrhage caused by this injury were sufficient in the ordinary course of nature to cause the death of Devinder Pal Singh.

4. The medical examination of Virender Pal Singh (PW 6) revealed that he had sustained the following injuries on his person :

1. Incised wound 5 1/2 cm x 3 cm (depth by surgeon) in front of upper part of left shoulder. Fresh blood was coming out.

2. Incised wound 8 cm x 4 cm (depth by surgeon) on upper part of left upper arm on lateral aspect. Fresh blood was present.

3. Incised wound 3.5 cm x 2.5 cm (depth to be explored by the surgeon) on proximal part of penis. Fresh blood was coming out.

5. The learned Additional Sessions Judge as well as the High Court after careful and thorough discussion of the entire evidence adduced in the case have concurrently found that the testimony of the eyewitnesses Hazur Singh (PW 5) and Virender Pal Singh (PW 6) who had sustained serious injuries in the course of the occurrence was fully worthy of credence. Relying on their evidence and the medical testimony it was held that both the charges were fully brought home to the appellant.

6. It has not been shown before us that the appreciation of the evidence by the courts below was in any way defective. We are fully satisfied that the conclusion recorded by the High Court and learned Additional Sessions Judge that the appellant had wilfully caused the injuries in question to the deceased Devinder Pal Singh and to Virender Pal Singh (PW 6) is fully warranted by the evidence on record.

7. Counsel for the appellant cited before us the decision of this Court in Harjinder Singh alias Jinda v. Delhi Administration ((1968) 2 SCR 246 : AIR 1968 SC 867 : 1968 Cri LJ 1023) and contended that since the injury which resulted in the death of the deceased was caused by a knife blow in the groin, the appellant cannot be said to have had the intention of causing the death of the deceased or of causing such bodily injury to him as was likely to cause death to the knowledge of the appellant or such as was sufficient in the ordinary course to cause death. On this basis it was urged that the conviction of the appellant under Section 302 IPC was not justified. We see no force in this argument. The nature of the offence does not depend merely on the location of the injury caused by the accused. The intention of the person causing the injury has to be gathered from a careful examination of all the facts and circumstances of each given case. The present is not a case where the appellant merely swung his knife towards the leg of the deceased during some struggle and it happened by sheer misfortune to cut an artery. That the appellant had intended to cause injury to vital parts of the deceased is clear from the fact that he had administered a stab wound on the chest of the deceased on back side. It is also significant that the knife blow dealt by the appellant in the groin of the deceased had caused a wound 8 cm deep piercing both the femoral blood vessels.

Moreover when PW 6 tried to intervene, the appellant inflicted two stab wounds on him, which were of identical pattern namely, one on the back of the chest and one in the groin region but fortunately those injuries did not prove fatal. Taking into account all these circumstances, we have no hesitation to agree with the courts below that the appellant was clearly guilty of the offence charged against him under Section 302 IPC.

8. No serious argument was advanced before us against the conviction of the appellant under Section 307 IPC arising out of the injury caused by him to PW 6. Having regard to the nature of the injuries sustained by PW 6 the said conviction was perfectly in order.

9. It follows from the foregoing discussion that this appeal is wholly devoid of merit. It will accordingly stand dismissed.

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