

Kartar Singh

Vs

State of Punjab

Criminal Appeal No. 46 of 1984

(G.L. Oza, B.C. Ray, K. Jagannatha Shetty JJ)

13.01.1988

ORDER

1. This is an appeal by special leave on behalf of the appellant who is convicted under Section 302 IPC and sentenced to imprisonment for life by the High Court.
2. It is not disputed that trouble arose between close relations at the time of marriage and thereafter some days before the incident there was exchange of abuse. According to the prosecution this present appellant and three others went to the house of Ravel Singh and it is clear that they attacked him. The act attributed to the present appellant is that he gave a stab wound in the abdomen of the deceased which apparently resulted in the death of the deceased.
3. It is also not in dispute that in this incident this appellant and other accused also received some injuries. This appellant is alleged to have received number of injuries, two with sharp weapons and other injuries by blunt weapons. Accordingly to the prosecution story, one Mehar Singh who was examined as a witness for prosecution stated that he took up a seroo (the leg of the cot) and inflicted injuries by it on this accused also.
4. The defence set up by the present appellant in the course of cross-examination of witness was that in fact he had gone to the house of Ravel Singh to lodge a protest about what was said earlier and when he lodged the protest Ravel Singh attacked the present appellant and the persons accompanying him and in this scuffle when he received injuries he took out the knife which he was carrying and inflicted a blow on the deceased which resulted in his death. The appellant is alleged to be of 18 years at the time of the incident and therefore after conviction he has been sent to a borstal school.
5. The circumstances that appear are that there is no clear explanation of the injuries on the accused person. The appellant has set up a defence that the scuffle started and it is only in that situation that he took out the knife and inflicted a blow. It is also not in dispute that it was only one blow which was inflicted by the present appellant. In these circumstances, the evidence of the prosecution does not clearly establish the manner in which the incident took place and, therefore, it could not be held that the incident did not take place in the manner suggested by the present appellant accused, and in that situation it could not be held that he inflicted this injury with an intention to cause death. At best, knowledge could be imputed to him that it may result in death. In view of this the conviction of the appellant under Section 302 could not be maintained. The conviction of the appellant is altered to Section 304 Part II. He has already been in custody for more than five years and, in our opinion, the sentence undergone would meet the ends of justice.

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