

Ram Lal and Another

Vs

State of Punjab

Criminal Appeal No. 451 of 1985

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

14.01.1988

ORDER

1. This is an appeal under Section 14 of the Terrorists Affected Areas (Special Courts) Act against the conviction of the two appellants Ram Lal under Section 302 and sentence of life imprisonment and Bhag Singh under Section 324 and sentence of two years awarded by the Additional Judge, Special Court, Ludhiana in Sessions Trial No. 22 of 1985 by his judgment dated May 2, 1985.

2. It appears that the two appellants along with Darshan Singh and Arjun Singh went to the shop of Ram Das who is running a shop of shoemaker and as Arjun Singh was the landlord of the premises. It appears that they went there to pressurise the tenant to vacate the premises. It is not disputed that none of appellants was carrying any arm or instrument of offence. They were all unarmed. At the shop some verbal exchange started. In that situation Ram Lal took up rambi, which is an instrument used in shoe making and which was lying in the shop and he inflicted one blow, which unfortunately fell on the vital part of the body resulting in fatal injury. It is alleged that Bhag Singh also took rambi which again was available readily as it was a cobbler shop and he also gave a blow. There is controversy as to whether this blow resulted in two injuries one on the eyebrow and the other on the palm. The prosecution has examined three eye-witnesses PW 2 Ram Das, PW 3 Ram Swarup and PW 4 Darshan Singh. The first information report was lodged immediately. The defence version was that there was grappling between Buta Singh and Ram Lal and ambi was in the hand of the deceased himself and because he fell down in grappling this instrument rambi pierced in his body resulting in a fatal injury. Looking to the evidence of the prosecution witnesses which has been believed by the trial court and which was read before us also by the learned counsel, we see no reason to disagree with the trial court when it rejected the defence version. But from the evidence of the prosecution, it appears that there was some exchange of words which resulted in aggravating the situation. It also appears that the appellants were not carrying any instrument of offence. On the spur of the moment, they picked up the instrument of offence then and there. The trial court also after considering the evidence of the prosecution came to the conclusion that there was no previous meeting of minds nor there was any concerted effort on the part of the appellants. This incident took place at the spur of the moment and admittedly in heat of passion. It is also clear that the appellants wanted the tenant to vacate the shop. The shop belongs to Ram Das and he was in occupation of the shop but he was not attacked.

3. In the circumstances as stated above it is clear that as a result of hot exchange between Buta Singh and Ram Lal tempers rose and Ram Lal picked up rambi which was lying there and in heat of passion inflicted one blow. Under these circumstances in our opinion the conviction of the appellant 1 under Section 302 IPC could not be sustained. He could be convicted only under Section 304 Part I IPC. So far as appellant 2 Bhag Singh is concerned, the court below has convicted him under

Section 324 and Section 34 was not invoked. The appeal is therefore partly allowed and conviction of appellant 1 is converted to Section 304 Part 1. The conviction of appellant 2 is maintained. As regards sentence, appellant 1 is awarded a sentence of 8 years rigorous imprisonment under Section 304 Part I IPC. So far as appellant 2 is concerned, who is convicted under Section 324 IPC it appears from the judgment and it is not disputed that at the time of incident he was a boy of 20 years. Under these circumstances he will be entitled to the benefit of Section 6 of the Probation of Offenders Act. Looking to these circumstances, it is directed that instead of sending him back to prison, he shall be released on furnishing a bond for good behaviour for a period of two years to the satisfaction of Chief Judicial Magistrate, Ludhiana. He shall not be taken back to custody, as he has already been released on bail.

4. The appeal is disposed of accordingly.

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