

Jagtar Singh

Vs

State of Punjab and Others

Criminal Appeal No. 532 of 1985

(B.C. Ray, K. Jagannatha Shetty JJ)

27.01.1988

JUDGMENT

RAY, J. –

1. This appeal by special leave is against the judgment and order passed by the High Court of Punjab and Haryana at Chandigarh in Criminal Appeal No. 302-DB of 1984 reversing the conviction and sentence passed by the Additional Sessions Judge, Patiala and acquitting the appellant Paul Singh (respondent 2 in this appeal) of the charge under Section 302.

2. On October 8, 1983 at about 4 p.m. the deceased, Karnail Singh who was the next door neighbour of Paul Singh, along with his son Kuldip Singh (PW 8) were taking their buffaloes from their house towards the fields. When they reached near the house of one Baldev Singh in the lane where the houses of weaver community are situated, respondent 2, Paul Singh came from the opposite side driving a tractor. While the tractor was passing, it hit one of the buffaloes whereon Karnail Singh asked Paul Singh whether he could not see the buffaloes. There was some altercation between the parties. Paul Singh suddenly got down from his tractor taking the handle of the tractor in his hand and gave a blow on the forehead of Karnail Singh, the deceased. The deceased fell on the ground with his face downward. At that time Jagtar Singh (PW 1), another son of the deceased, Karnail Singh along with Gurmit Singh was coming towards the spot and they saw the occurrence. Paul Singh gave 3-4 blows on Karnail Singh lying on the ground and took to his heels as Jagtar Singh (PW 1) and Gurmit Singh were hastening to the spot to intervene. The tractor was left behind. The deceased died on the spot on receipt of the injuries. Jagtar Singh (PW 1) keeping Kuldip Singh (PW 8) and Gurmit Singh to guard the dead body, went to the police station by bicycle which is about 12 kms. from the place of occurrence in village Sangatpur Sodhian and reached there at about 5.15 p.m. The statement of Jagtar Singh (Ex. PA) was recorded as FIR by the Sub-Inspector, Harbans Singh (PW 9). The Sub-Inspector and Jagtar Singh came to the spot at about 7 p.m. and made an inquest report. The said report (FIR) was despatched by the Sub-Inspector to Illaqa Magistrate who received the same at about 8.15 p.m. on October 8, 1983. The tractor of respondent 2, Paul Singh was taken into possession by the Sub-Inspector vide Memo Ex. PL. After preparing the inquest report (Ex. PE), the Sub-Inspector despatched the dead body of Karnail Singh for autopsy. Respondent 2 was arrested on October 9, 1983 and on the basis of his disclosure statement (Ex. PG) the handle of the tractor (Ex. PF) stained with blood was recovered by the Sub-Inspector. Respondent 2 in his statement under Section 313 of Code of Criminal Procedure pleaded his innocence and stated that due to enmity he has been falsely involved in this case.

3. The learned Additional Sessions Judge after hearing the counsel for the parties and on a consideration and appraisal of the evidences on record, convicted the accused Paul Singh under

Section 302 IPC and sentenced him to suffer RI of life and also pay a fine of Rs. 200 in default of payment of fine to undergo further RI for 2 months. It was also ordered that the period of detention already undergone by him during the investigation, inquiry or trial would be allowed to be set off under Section 428 of Code of Criminal Procedure.

4. Against this judgment and order the accused, Paul Singh filed an appeal being Criminal Appeal No. 302-DB of 1984 in the High Court of Punjab and Haryana at Chandigarh. The said appeal was heard by a Division Bench of the High Court and without properly considering and marshalling the evidences of the eye-witnesses, Jagtar Singh (PW 1) and Kuldip Singh (PW 8) as well as the FIR (Ex. PA) and also the Inquest Report (Ex. PE) and other evidences on record, wrongly held that the occurrence was not witnessed by Jagtar Singh and Kuldip Singh and Paul Singh, respondent 2 in this appeal was named in the FIR because of the previous prolonged enmity with him. It was also held that it would be unsafe to rely upon the ocular evidence without any independent corroboration and acquitted respondent 2 setting aside the conviction and sentence awarded by the Additional Sessions Judge.

5. The incident occurred on October 8, 1983 at about 4 p.m. and the FIR was lodged by Jagtar Singh (PW 1) who is the son of the deceased, Karnail Singh at Police Station Moolepur which is at a distance of 12 kms. from the place of occurrence in village Sangatpur Sodhian at about 6.15 p.m. In the FIR (Ex. PA) it has been stated by the informant, Jagtar Singh (PW 1) that he and his brother, Kuldip Singh (PW 8) and one Gurmit Singh were present at the place of occurrence and witnessed the assault by the accused, Paul Singh with the handle of the tractor on the deceased, Karnail Singh over an altercation as to the striking the tractor against one of the buffaloes of the deceased. It also appears that in the FIR it has been stated that the accused gave a blow with the handle of the tractor to the father of the informant hitting his forehead towards the left and he also gave 3-4 blows with the handle while the deceased fell down on the ground with his face downward hitting his head. He and Gurmit Singh were hastening to intervene when the accused fled away with the handle. It is also evident from the inquest report (Ex. PE) prepared by the Sub-Inspector (PW 9) on the date of the incident that he found amongst other articles one tractor - Escorts being registration No. PUC 5206 which he sealed vide Memo Ex. PL. Admittedly, there was long-standing enmity between the accused and the deceased. The accused filed papers which were exhibited in the case showing that several criminal cases were filed between the parties and this long-standing enmity between the parties was the motive on the part of the accused to inflict injuries on the deceased, Karnail Singh and the immediate motive was the altercation which the deceased had with the accused when the tractor of the accused struck one of the buffaloes of the deceased.

6. It has been urged on behalf of the respondents that in the FIR (Ex. PA) it was merely stated that the accused gave one handle blow on the forehead of the deceased. Then the deceased fell down and the accused gave 3-4 handle blows to the deceased whereas in his deposition before the court the informant made the improvement by stating that out of the 3-4 handle blows one hit him on the right side of the forehead, one on the back of the left side of the head, one on the back of the right side of the head and one on the back of the head. It has also been urged that in the FIR it was not stated that Jagtar Singh, PW 1 and Gurmit Singh tried to intervene when the accused was giving blows to the deceased with the handle. It was therefore urged that because of these improvements, the prosecution story as made out in the FIR was doubtful. It was further submitted that in the FIR it was not stated that the accused left the place leaving the tractor at the place of occurrence though the FIR stated in detail about the occurrence. This submission cannot be sustained as it is evident from the FIR which was lodged with utmost promptitude that PW 1 had stated therein that 'he and Gurmit Singh went ahead in order to separate him'. As regards the statement in his evidence regarding the

3-4 blows made with the handle of the tractor it cannot be said to be an improvement but it merely explains the places where the assault was made on the body of the deceased. On this basis, it cannot be said that there was an improvement made on what was stated in the FIR. The statements of the eye-witnesses cannot be discarded on this score. The statements of the witnesses are very clear and straightforward. There cannot be any doubt or possibility regarding the presence of the two eye-witnesses PW 1 and PW 8 at the time of the incident.

7. On a careful appraisal of the evidences of these two eye-witnesses we cannot but hold that they were present at the place of occurrence and witnessed the entire incident. It appears from the post-mortem report also that there were six injuries on the person of the deceased and these injuries according to the opinion of the doctor, PW 2 were sufficient to cause death in the ordinary course of nature.

8. The appellate court held that the recovery of the tractor was of no help to the prosecution case as in the FIR it was not mentioned that the accused had left the tractor at the spot. FIR is not expected to contain all the details. This finding of the appellate court is wholly erroneous inasmuch as it is evident from the inquest report (Ex. PE) made on the date of occurrence i.e. October 8, 1983, that the tractor was seized on that date from the place of occurrence vide recovery memo No. PL by the Sub-Inspector, Harbans Singh, PW 9. There is therefore, no room for doubt that the tractor was left at the place of occurrence by the accused while running away with the handle of the tractor. It is also very significant to note that the handle of the tractor used to give blows to the deceased was recovered as per the recovery memo (Ex. PG) in pursuance of the disclosure statement made by the accused in presence of independent witnesses, Nirmal Singh and Jarnail Singh. It appears from the report Ex. PH of serologist and chemical examiner that iron handle was stained with human blood.

9. In view of the reason hereinbefore the prosecution case has been proved beyond reasonable doubt. The judgment and order of acquittal passed by the High Court is therefore, set aside and the order of conviction and sentence passed by the learned Additional Sessions Judge is hereby affirmed. Let non-bailable warrants issue forthwith for the arrest of the accused, Paul Singh, respondent 2 and to put him in jail to undergo the remaining period of sentence.

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