

1. Rattan Singh 2. Ran Singh & Another

Vs

State of Punjab

Criminal Appeals Nos. 205 of 1987 and 96 of 1988

(G.L. Oza, K. Jagannatha Shetty JJ)

22.03.1988

ORDER

1. These appeals have been filed by the three appellants against their conviction under Section 302 and sentence of imprisonment for life maintained by the High Court in Criminal Appeal No. 690 of 1983 decided by the judgment dated March 19, 1984. These three appellants along with some others were prosecuted for offence under Sections 302, 148 read with Section 149. It appears that there was some dispute about the land and the complainant party who were in possession of the agricultural land were sowing filed at that moment. The accused persons were armed with various instruments of offence like barchi, ballam, lathies and dang. The complainant party attempted to run, but it is alleged that deceased Gaje Singh was hurt and assaulted by a number of persons as a result of which he received, as many as 13 injuries and ultimately resulting in his death. After trial these three appellants along with some others were convicted and sentenced for various offences as per details given below :

#Malkiat Singh u/s 148 IPC RI for one year. u/s 302/149 IPC imprisonment for life. u/s 325 IPC RI for two years. u/s 324/149 IPC RI for one year. u/s 324/149 IPC RI for one year. Ram Singh, Dan Singh and Rattan u/s 148 IPC RI for one year each and Rattan Singh u/s 302/149 IPC imprisonment for life each. u/s 325/149 IPC RI for two years. u/s 324 IPC RI for one year.##

2. On appeal learned judges of the High Court after considering the evidence acquitted all others, but convicted the present three appellants Ram Singh, Dan Singh and Rattan Singh and that all the three appellants have been convicted under Section 302 and sentenced to imprisonment for life and a fine of Rs. 5000 each. After hearing learned counsel for the parties, it is apparent that these three appellants have been convicted under Section 302 and therefore, it is necessary to find out the injury inflicted by each one of them on the person of the deceased. Admittedly according to the prosecution's own case Ram Singh and Rattan Singh were carrying lathies which could be described as hard and blunt object. Such injuries on the person of the deceased were either on hands or on feet and at best what could be attributed to them could be injuries resulting in fractures. None of these two appellants could be convicted for causing injuries individually which could make out an offence under Section 30. At best they could only be convicted under Section 325 and maximum sentence under Section 325 is seven years.

3. As regards Dan Singh, he was carrying barchi (spear) and two injuries which have been found on the person of the deceased which are described as incised injuries 1 and 2. According to the evidence examined at the trial this appellant has alleged to have inflicted injury by barchi (spear) on the right arm on the upper part. There is no injury on the upper part of the right arm which could be

said to have been inflicted by a sharp edged weapon. Even if any other injury could be attributed, it could only be either 1 or 2 and it is clear that none of these injuries are as per medical opinion fatal, which resulted in death of the deceased. Even if injury No. 2 is attributed to this appellant, he at best could be convicted under Section 326 or if injury No. 1 is attributed to him also, he could be convicted under Section 324 only. In either case, sentence of 5 years could be said to be sufficient.

4. It is reported that all these persons are in jail since October 1982 and therefore have completed more than 5 years imprisonment till today. In the circumstances of the case, in our opinion even if their conviction is maintained under Sections 325 and 326 sentence already undergone will meet the ends of justice. In the circumstances therefore, the appeals are partly allowed and conviction of the three appellants is altered from Section 302 to Sections 325 and 326. In the circumstances of the case their sentence is reduced to that already undergone. Sentence of fine imposed by the courts below is maintained. If the fine is not paid within three months from today, the appellants will suffer imprisonment for six months in default of payment of fine.

Court Master

</html