

Balkar Singh

Vs

State of Punjab

Criminal Appeal No. 111 of 1986

30.03.1989

ORDER

1. The appellant Balkar Singh and one Rachhpal Singh alias Raju were charged under Section 302 IPC for having committed the murder of one Joginder Singh, who was undergoing sentence of imprisonment in the Central Jail. Amritsar for a conviction under Section 307 IPC by administering to him poisoned laddus and tea. The Sessions Judge acquitted both the accused of the charge under Section 302 but however convicted the appellant under Section 328 IPC and sentenced him to undergo RI for 7 years. The said conviction and sentence were confirmed by the High Court and hence the present appeal by special leave by the appellant.

2. According to the prosecution the appellant and Rachhpal Singh were seen purchasing laddus and tea from a tea shop in front of the Central Jail at Amritsar on the afternoon of April 26, 1983 by PW 6 Amar Singh. In order to enter the Central Jail as a visitor, the appellant gave the name of the prisoner's brother viz. PW 3 Sukhdev Singh and thus managed to have an interview with Joginder Singh and pass on the laddus and tea to him. Soon after taking the laddus and tea, Joginder Singh became sick and began to vomit. He complained to the jail authorities and also to the doctors at the hospital, when he was taken for treatment, that he became sick immediately after taking the laddus and tea given to him by the visitor who had come to see him in the jail. In spite of treatment being given to him, Joginder Singh died. The stomach contents were sent for chemical analysis and were found to contain organo phosphorus poison and alcohol. During the investigation of the case the thumb mark affixed by the appellant in the visitor's register kept in the jail was compared with his admitted thumb mark and found to be identical. PW 3 Sukhdev Singh, the brother of Joginder Singh was examined and he categorically stated that he had not at all gone to Amritsar on the day in question or sought for an interview with Joginder Singh in the Central Jail.

3. The plea of the appellant was that it was true that he had affixed his thumb mark in the visitors register in the jail against the name of Sukdev Singh but he had done so only to oblige a person whom he had met at Amritsar and who gave his name and address and wanted an entry made on his behalf in the jail register to obtain an interview with Joginder Singh. The appellant denied having purchased laddus and tea along with Racchpal Singh from the tea shop or having entered the jail and handing over the tea and eatables to Joginder Singh.

4. The learned Sessions Judge found the prosecution evidence fully acceptable insofar as the appellant is concerned but however convicted him only under Section 328 IPC instead of under Section 302 IPC. Racchpal Singh was given the benefit of doubt and acquitted. The High Court as already stated, declined to interfere with the conviction of the appellant.

5. Mr. Kohli, learned counsel for the appellant contended that since PW 4, the jail warden had stated that no eatables were given to Joginder Singh during the interview, the entire edifice of the

prosecution case falls to the ground. The contention does not take note of PW 4's admission that it is possible that sometimes visitors manage to serve eatables to prisoners without the knowledge of the warden. The admission made by PW 4 coupled with the fact that Joginder Singh had complained to the jail authorities and to the doctors that he became sick only after eating laddus and drinking tea leaves no room for doubt that Joginder Singh ought to have been given poisoned laddus and tea and it was on account of it he had died due to organo phosphorous poison.

6. Learned counsel for the appellant then argued that there is no evidence as to how Joginder Singh had consumed alcohol and who had supplied the same to him. It is true there is no evidence who gave alcohol to Joginder Singh but he had complained of sickness only after eating the laddus and not after consumption of any alcohol. Therefore the presence of alcohol in the stomach is not a material factor to detract the truth of the prosecution case against the appellant.

7. The plea of the appellant that he had affixed his thumb mark in the visitor's register only to oblige an acquaintance whom he had met at Amritsar in order to facilitate him to get an interview with Joginder Singh is too unnatural a story to merit acceptance and has been rightly rejected by the Sessions Judge and the High Court.

8. PW 3 Amar Singh has stated that the co-accused Rachhpal Singh had enmity with his brother because he had abducted Harbhajan Kaur wife of Joginder Singh and this had led to some litigation between Rachhpal Singh and Joginder Singh. It is therefore very likely that at the instance of Rachhpal Singh the appellant had taken poisoned laddus and tea to Joginder Singh and made him eat the laddus while Rachhpal Singh cleverly stood outside the jail.

9. Having regard to the conclusive nature of the evidence in the case, we find no merit in any of the appellant's contentions that he has been wrongly convicted. The appeal is therefore dismissed.

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