

Banta Singh

Vs

State of Punjab

Criminal Appeal No. 771 of 1979

(A.M. Ahmadi, V. Ramaswami, M. Fathima Beevi JJ)

14.03.1991

JUDGMENT

1. Four persons, namely, Nanta Singh (accused No. 1), Banta Singh (accused No. 2), Charta Singh (accused No. 3) and Lakha Singh (accused No. 4) were tried for the murder of Santa Singh and for causing injuries to PW 4 - Nanak Singh by the learned Sessions Judge, Kapurthala. The learned Sessions Judge acquitted Charta Singh and Lakha Singh, accused Nos. 3 and 4, respectively. He, however, convicted Nanta Singh and Banta Singh, accused Nos. 1 and 2, respectively under Ss. 302/34 and 307, I.P.C. The High Court confirmed their conviction and sentence. Both Nanta Singh and Banta Singh sought special leave to appeal under Art. 136 of the Constitution. This Court by its order dated 17th December, 1979 refused to grant special leave to Nanta Singh. Special leave to appeal was, however, granted to the present appellant Banta Singh. He was also directed to be released on bail. In addition to the above four, one Jagjit Singh was also a companion of the convicted accused. He was absconding at the relevant point of time and, therefore, he could not be put up for trial along with aforesaid four persons. He was later tried and convicted for his role in the killing of Santa Singh. His conviction and sentence have become final. In other words, the conviction and sentence of Nanta Singh, original accused No. 1, and Jagir Singh have become final. We are, therefore, concerned with the question of involvement of the appellant Banta Singh only.

2. The prosecution case depends on the testimony of two eye-witnesses, namely, PW 3 - Kartar Singh and PW 4 - Nanak Singh who was injured in the incident. They are father and son. The deceased Santa Singh was the father of PW 3 and grandfather of PW 4. The incident in question occurred on 10th July, 1976 in their field at around midnight. Santa Singh, his son PW 3 Kartar Singh and his grandson PW4 Nanak Singh were in the field at the cattle shed to look after the cattle when the appellant and his companions went there armed with spears and launched an assault on Santa Singh as they suspected him to be a police informant. When PW4 - Nanak Singh intervened, he too was belaboured. PW 5 - Niranjan Singh who was in the neighbouring field arrived at the scene of occurrence on hearing the alarm. He was also informed by PWs 3 and 4 about the incident. His evidence has been tendered to lend corroboration to the evidence of PWs 3 and 4. The allegation is that the assault was opened by Jagir Singh on the deceased Santa Singh with a blow on the right side of his chest near the nipple. As a consequence of this blow, Santa Singh fell on his face. Immediately thereafter Banta Singh, the appellant, gave a blow on the back of the fallen Santa Singh. PW 4 - Nanak Singh who was by the side of his grandfather tried to intervene. Thereupon the appellant gave a blow with his barchhi on his left wrist. Nanta Singh, original accused No. 1, also gave a blow below the right nipple of Nanak Singh. PW 3 - Kartar Singh was at a distance at the time when this assault was launched. By the time he came near the injured, assailants had fled away.

3. The First Information Report was lodged by PW 3 - Kartar Singh at Police Station, Sultanpur at about 7.05 a.m. next morning i.e. on 11 th July, 1976. Before lodging this complaint. PW4 was admitted for treatment to the hospital in Sultanpur at a short distance from the Police Station. The postmortem of the dead body of Santa Singh was undertaken at about 12.30 p.m. on 11 th July, 1976. The statement of PW 4, who was then aged 15 or 16 years, was recorded around 3.00 p.m. Prior to that the statement of PW 5 - Niranjana Singh was recorded at about 11.00 a.m. after the police visited the scene of occurrence. It is, therefore, clear that the prosecution case mainly hinges on the evidence of PWs 3 and 4 and the evidence of PW 5 whose evidence is used to lend corroboration to the. evidence of the said two witnesses.

4. Learned counsel for the appellant submitted that the Trial Court had doubted the presence of PW 3 - Kartar Singh in the field on that date. He also pointed out that according to the Trial Court PW 3 - Kartar Singh was not an eye-witness to the occurrence. We have perused the evidence of PWs 3, 4 and 5 carefully. Counsel for the appellant stated that the story of the appellant having given a blow on the back of the deceased was an improvement, as no such version was to be found in the First Information Report. We will assume this for the sake of argument. We will also assume for the sake of argument that the presence of PW 3 at the place of occurrence on that night is doubtful. Even so, if the evidence of PW 4 - Nanak Singh as corroborated by the evidence of PW 5 - Niranjana Singh in regard to the presence of the appellant and his participation in the commission of the crime is accepted as reliable and trustworthy, the conviction of the appellant cannot be assailed. Shorn of improvement and embellishment, the evidence of PW 4 establishes that the appellant, Jagir Singh and Nanta Singh had gone to the field armed with barchhis (spears) and Jagir Singh had opened the assault by giving a blow on the chest of Santa Singh. The fact that the incident occurred in the field of the deceased cannot be disputed. The presence of the deceased and PW 4 Nanak Singh equally cannot be disputed. PW 4 - Nanak Singh received the blow on his wrist which is established from medical evidence. Therefore PW 4 - Nanak Singh's statement that he was injured by a barchhi blow given by the appellant is unassailable. That barchhi blow was given in the course of the incident in question. The appellant and his companions had come armed with deadly weapons to assault Santa Singh as he was suspected to be a police informer. Therefore, even if it is assumed for the sake of argument that PW 3 was not present and that the story regarding the appellant having given the blow on the back of Santa Singh is a subsequent improvement not found in the F.I.R., the involvement of the appellant in the incident and his giving of a barchhi blow to PW 4 -Nanak Singh when the latter tried to go to the rescue of his grandfather is sufficient to convict him with the aid of S. 34, I.P.C.

5. In the result, we see no merit in this appeal. We uphold the conviction and sentence of the appellant. The appellant will surrender to his bail and serve out the remaining sentence. The appeal is disposed of accordingly.

Appeal dismissed.

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