

Swinder Singh

Vs

State of Punjab

Criminal Appeal No. 421 of 1980

(Smt. M. S. Fathima Beevi, S. R. Pandian JJ)

10.10.1991

JUDGMENT

1. The present appeal is preferred by the appellant Swinder Singh, who was aged about 29 years at the time of the occurrence and 42 at present, questioning the correctness of the judgment rendered by the High Court in Criminal Appeal No. 517 of 1980 confirming the conviction of the appellant under Section 302, IPC and the sentence of imprisonment for life imposed therefore. We do not intend to proliferate the facts of the case which are all well set out in the judgment of the Courts below. The charge levelled against the appellant was that on 1st April, 1976 at Amritsar the appellant committed the murder of the deceased Prabhdyal Singh by administering-alcohol containing poisonous substance.

2. The entire edifice of the prosecution is rested only on circumstantial pieces of evidence. Those circumstances are that (i) there was a strong motive for the appellant to liquidate the deceased; (ii) both the appellant and the deceased were seen together before and after the occurrence; and (iii) the suspicious conduct of the appellant before and after the occurrence led to an illation of his guilt. The motive for the prosecution is spoken to by PWs 5, 8 and 9. It transpires from the evidence adduced by the prosecution that the appellant and the deceased were very close friends having studied together in the school as well as in the college for a period of six years and that each of them had paid frequent visits to the house of the other. One Joginder Singh, a resident of the nearby village, Lopoke was a friend of the deceased. He is said to have developed friendship with the appellant and in that manner he also developed illicit relationship with the sister of the appellant, namely, Balwindro. This girl Balwindro was subsequently betrothed to one Raj Singh who is the sister's son of the mother of the deceased. The deceased was suspected to have informed this illicit relationship of the sister of the appellant with Joginder Singh to the family members of Raj Singh to whom the girl had been betrothed.

3. On receipt of that information Raj Singh decided not to marry the girl. It is also admitted that this girl Balwindro thereafter died either of poisoning or by being killed by her relatives. However, the fact remains that the girl died under some suspicious circumstances. This according to the prosecution was the motive for the appellant to put an end to the life of the deceased whom the appellant suspected to have been responsible for the tragic end of his sister. It is, said that the appellant, thereafter, was not in talking terms with the deceased for about six months. Subsequently, he developed his friendship again with the deceased. The next piece of evidence the prosecution has attempted to adduce is that the appellant and the deceased travelled together by a bus to Amritsar. To substantiate this part of the case the prosecution has examined PWs 6 and 7. Yet another

circumstantial piece of evidence put forth by the prosecutions that the deceased was taken to the hospital, SGTB-Hospital, Amritsar by the appellant where he was examined by PW 1 (Doctor). He examined Prabhdiyal Singh who was at the time was in a state of coma and having alcoholic smell. The deceased was taken to the hospital by the appellant about 8.10 p. m. and he expired at 8.40 p. m. Postmortem was conducted by PW 1 who found four abrasions on the body of the deceased, which injuries in the opinion of the medical officer could have been caused by a blunt weapon. The viscera was sent for chemical analysis. On receipt of the report of the chemical examiner, PW 1 gave his opinion stating that the death of the deceased in his opinion was due to strychnine and alcohol poison. According to the medical officer the blood alcohol found in this case showed that it was a fatal dose of alcohol. The case was registered by PW 8 and the same was investigated. However, the police filed a report referring the case on the ground that the evidence gathered during the investigation was not sufficient for presenting a challan against the appellant.

4. It was only thereafter the mother of the deceased PW 5 gave a private complaint. The Magistrate who after taking the evidence committed the case for trial. The Trial Court for the reasons mentioned in its judgment found the appellant guilty of the offence under Section 302, IPC and convicted and sentenced him thereunder as aforementioned which judgment of the Trial Court for the reason given by the High Court was confirmed. Hence this appeal.

5. It is true that the evidence discloses strong motive for the appellant against the deceased. Not denying the fact that the deceased died of taking poison mixed in alcohol but the question that arises for consideration is as to whether the appellant and the appellant alone was responsible for causing the death of the deceased by administering the alcohol mixed with poison. The explanation given by the appellant is that he was a close friend of the deceased, that on the date of occurrence, he met the deceased near the Railway Station of Amritsar in a drunken condition; that at the request of the deceased he took him to SGTB Hospital where the deceased ultimately died and that thereafter, he informed PW 5 about the death of the deceased at about midnight on 1-4-1976. So far as the evidence regarding the movement of the deceased in the company of the appellant on the fateful day, the prosecution has rested its case on the evidence of PWs 6 and 7. The High Court after discussing the evidence of these two witnesses in detail has made the following observation :

"We have thus considered it safer to exclude the evidence given by Tehal Singh like that of Ajaib Singh for determining whether from the remaining evidence it can be taken to be established that the deceased had come along with the appellant to Amritsar and then remained with him for whole of the day on April 1, 1976."

6. We see no reason to depart from the above conclusion arrived at by the High Court. In the hospital the appellant has given his name as the person who brought the deceased in a drunken condition. Barring the above circumstances, there is no other evidence connecting the appellant with the crime or at least for drawing an illation as to whether he gave alcohol or whether he purchased any poison from any shop or whether he mixed any poison with alcohol and administered it to him. In other words, the main link in the chain of circumstances is completely broken and there is no connecting evidence whatsoever worth mentioning incriminating the appellant with the crime in question.

7. It appears that both the Courts below by overlooking the fact that the chain of circumstances is completely broken have recorded the conviction evidently on strong suspicion based on the evidence that there was a strong motive for the appellant to snap the life thread of the deceased.

8. It is no doubt true as we have pointed out earlier that there is a strong suspicion against the appellant, but as pointed out by this Court in *Pabitar Singh v. State of Bihar*, (1972) 3 SCC 354 : (AIR 1972 SC 1899) although there may be grave suspicion against an accused person, still the prosecution is bound to establish facts from which the Court can reasonably arrive at a conclusion that the offence was committed by the accused. It may be recalled that this Court repeatedly observed that the suspicion however grave cannot take the place of legal proof.

9. For all the reasons stated above, we are unable to subscribe to the conclusion of the Courts below that the appellant is guilty of the offence with which he now stands convicted, since in our opinion such a conclusion is perverse and improper. In the result, we set aside the conviction under Section 302, IPC and the sentence of imprisonment for life imposed therefor and allow the appeal.

The bail bonds stand discharged.

Appeal allowed.

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