

Anokh Singh

Vs

State of Punjab

Criminal Appeal No.392 of 1980

(Kuldip Singh, R.M. Sahai JJ)

29.11.1991

JUDGEMENT

R. M. SAHAI, J.:-

1. The only question in this appeal is whether the High Court was justified in reversing the order of acquittal and sentencing the appellant under S. 302 of Penal Code.
2. The Trial Judge disbelieved the prosecution story as the shot by which the deceased died having admittedly been fired from 50 feet, there could not have been any blackish margins of the injuries. It was held that the incident having taken place sometime in the early morning the lodging of FIR at 1.00 p.m. when the distance of police station was only 100 feet, created an impression that it was a manufactured document. Presence of Sulakhan Singh and Arjan Singh, the two eye-witnesses was also ruled out as the wad was recovered from a distance of 46 feet whereas the shot must have been fired from 6 feet. The High Court on the other hand relying on text books held that blackish margin of the injuries could be either due to grease of the bullet or from traces of gun powder.
3. We have heard the counsel for parties at length. We have been taken through the judgment of both the courts and evidence. We do not propose to decide if the High Court was justified in setting aside the finding of the trial judge on variance between medical evidence and eye witnesses account. But the High Court did not examine the finding of the trial judge on improbability of prosecution story, doubtful presence of eye witnesses, delay in lodging FIR, and unnatural conduct of complainant party. In an appeal against acquittal the High Court should have attached greater weight to appreciation of evidence by the trial judge who had the occasion to watch their demeanour. Being satisfied on facts that the order of reversal passed by the High Court is not well founded we set aside the same without deciding the question of law.

In the result the appeal succeeds and is allowed. The order passed by the High Court is set aside. The bail bond of the accused is discharged.

Appeal allowed.

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