

Gurdev Singh

Vs

State of Punjab

Criminal Appeal No. 503 of 1981

(K. Jayachandra Reddy, N. P. Singh JJ)

14.08.1992

JUDGEMENT

N. P. SINGH, J.:-

1. The appellant has been convicted under S. 302 of the Penal Code and has been sentenced to undergo rigorous imprisonment for life. He has also been convicted under S. 307 read with S. 34 of the Penal Code and sentenced to undergo rigorous imprisonment for 5 years.

2. The appellant was put on trial along with Kaur Singh, Hakam Singh and Bant Singh for having committed the murder of Hardip Singh and attempting to cause the murder of Panna Singh (PW 15). The trial Court convicted all the four accused persons including the appellant under different sections of the Penal Code. However, on appeal being filed the High Court set aside the convictions and sentences passed against the aforesaid Hakam Singh and Bant Singh and acquitted them of the charges levelled against them. The convictions and sentences passed against the appellant and Kaur Singh were upheld by the High Court. We are informed that the Special Leave Petition filed on behalf of Kaur Singh before this Court against the same judgment of the High Court has been rejected by this Court.

3. The case of the prosecution is that on 7th February, 1977 at about 9.00 p.m. Hardip Singh (deceased) and Panna Singh (PW 15) had gone to the house of Harnek Singh (PW9) for the services of sons of Harnek Singh for sowing onions on the following morning. Harnek Singh expressed his difficulty in view of the fact that one of his sons was indisposed and the other was away from the village. Thereafter Harnek Singh (PW 9) and Panna Singh (PW 15) and Hardip Singh (deceased) left for the houses of harijans to engage the labourers. On the way they found the appellant and Kaur Singh armed with DBBL 12 bore guns, Bant Singh (since acquitted) armed with a rifle and Hakam Singh (since acquitted) armed with a Gandasa standing in front of them at the junction of the lanes. The appellant said that the enemies had come and saying this he opened fire and shot at Hardip Singh on his face. Hardip Singh fell down and died on the spot. Kaur Singh fired a shot from his gun on Panna Singh (PW 15) on his face. Panna Singh ran and fell down towards the main lane. Bant Singh also fired at Harnek Singh (PW9) but he missed the target.

4. Due to the fear of the accused neither Harnek Singh (PW 9) nor Panna Singh (PW 15) dared to go to the Police Station during the night. However, the first information report was lodged at 6.15 a.m. in the morning by Harnek Singh (PW 9).

5. The motive of the occurrence, according to the prosecution, is that the appellant Gurdev Singh who was the ex-Sarpanch of the Gram Panchayat had contested the election of the said Gram Panchayat with Harchet Singh brother of Hardip Singh (deceased). Harchet Singh won that election because of the help of Hardip Singh (deceased) and Panna Singh (PW 15). It appears that Hardip Singh (deceased) and his brother Harchet Singh had also been prosecuted for the murder of Jagsir Singh and Dharampal Singh and in that case this appellant, Bant Singh and Kaur Singh were the prosecution witnesses.

6. During the trial it has come in evidence that in the village there were two factions one headed by the appellant and the other by Harchet Singh and because of that there was enmity between the accused persons and the deceased.

7. According to the appellant, because of the aforesaid enmity he had been falsely implicated by the prosecution party.

8. Before the evidence of the eye-witnesses examined on behalf of the prosecution is examined, it will be proper to refer to the nature of injuries found on the persons of Hardip Singh (deceased) and Panna Singh (PW 15). Doctor who had the postmortem examination over the dead body of Hardip Singh stated about the injuries:-

"1. Lacerated wound 1 x 1 cm on the lower end outer part of the left cheek about 3 cms outer to the angles of the mouth, direction of the wound was oblique from below upwards fracturing the palate on its left outer side. Mild bleeding was present. Colour of the wound was brownish and blackish.

2. There was another lacerated wound 1 x 1 cm on the upper and outer part of left cheek about 2 cms below the outer angle of the left eye and 3 cms above and 1 1/2 cms inner to injury No. 1. Mild bleeding was present. The colour was brownish and blackish. Direction of the wound was oblique from below upwards and backwards. Fractures of underline maxilla was present."

9. On the person of Panna Singh (PW 15) the following injuries were found:-

"1. A lacerated wound transverse 6 cms X 2.5 cms on the face 2 cms below the right eye. Irregular and inverted margins were present' Bleeding was present. Blackening was present around the wound margins.

2. A lacerated wound 2 cms x 1.5 cms irregular and everted margins on the left part of face midway between the ear and the angle of mouth. Bleeding present. Advised x-ray paranasal sinuses."

10. In view of the nature of the injuries found on the dead body of Hardip Singh and on Panna Singh (PW 15) it cannot be disputed that both of them received gun-shot injuries from a close range. The gun-shot injuries found on the body of Hardip Singh and the person of Panna Singh, corroborate the case of the prosecution that victims suffered gun-shot injuries from a distance within few feet.

11. As to whether those injuries had been caused by the appellant and the other co-accused Kaur Singh has to be examined in the light of the submissions made on behalf of the appellant. The learned counsel appearing for the appellant has submitted that on the face of Panna Singh only two

fire arm injuries were found which demolishes the prosecution case, because according to the prosecution Kaur Singh the co-accused had fired at Panna Singh from a close range. If that was true, then in normal course more injuries would have been caused on the person of Panna Singh. We may point out at the outset that the doctor who examined the injuries of Panna Singh has mentioned that blackening was present around the injury No. 1 which establishes that firing was from a close range. Why only two injuries were caused on the person of Panna Singh, it was not for the prosecution to explain. The fact is not in dispute, that Panna Singh (PW 15) received two gun-shot injuries, blackening mark around one of the wounds, which is possible only if the firing is from within few feet from the victims. Even during the postmortem examination it was found that the wounds on the dead body of Hardip Singh (deceased) has brownish and blackish colour. -This also supports the case of the prosecution that the two victims received the gun-shot injuries from a close range.

12. Coming to the oral evidence of Harnek Singh (PW 9) and Panna Singh (PW 15), we are in complete agreement with the finding of the learned Judges of the High Court that their evidences are consistent throughout and they have faithfully and truthfully given the account of the occurrence in their statement before the trial Court. As Panna Singh (PW 15) received gun-shot injuries during the occurrence, his presence cannot be disputed. No reason can be conceived because of which Panna Singh (PW 15) instead of naming the real assailant will falsely name the appellant and Kaur Singh as the persons who caused those injuries. It is true that in the present case it is almost admitted, that the prosecution party and the accused persons belong to two camps. But merely on that ground, according to us, the evidence of two eye-witnesses, Harnek Singh (PW9) and Panna Singh (PW 15), cannot be rejected, especially when their evidence is fully corroborated by the medical evidence. The learned counsel appearing for the appellant could not point out from the evidence of the two eye-witnesses aforesaid except the inimical background as to why the Court should not have relied on their evidences.

13. In our view the trial Court'as well as the High Court have considered all aspects of the matter while coming to the conclusion that the charges framed against the appellant had been proved beyond reasonable doubt. We find no ground to take a contrary view. Accordingly, the'appeal is dismissed. Appeal dismissed.

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