

Kuldip Singh

Vs

State of Punjab

Criminal Appeal No. 53 of 1985

(K. Jayachandra Reddy, G. N. Ray JJ)

19.08.1992

JUDGEMENT

K. JAYACHANDRA REDDY, J.:-

1. This appeal is filed against the judgment of the learned Judge, Special Court, Ferozepur. The sole appellant was convicted under Section 302, I.P.C. and sentenced to imprisonment for life for causing the death of his wife Malkiat Kaur, the deceased in the case. The case of the prosecution is that the father of the deceased died and on March 8, 1984 his death anniversary was to take place in the village. A Bhog (meeting) was arranged in that connection. The deceased along with her husband, the accused, their children and relations gathered. After the Bhog was over, the accused wanted to leave for his Village Waring but the deceased wanted to stay on. There was some altercation. P.W. 3, the mother of the deceased intervened and sent the deceased along with her husband. P.W. 3 apprehending that there may be further altercation or trouble at the place of the accused went to the village of the accused on March 10, 1984. At about 8.30 P.M. on that day the deceased was working in the kitchen. Their children were in the house. The accused came in a drunken condition and started abusing the deceased in the name of her mother and the deceased retorted. There was some grappling between the two. Thereafter the accused went and brought his licensed gun and fired at the deceased hitting her in the neck. The deceased dropped down dead. P.W. 3 raised an alarm. The accused and the children ran away along with the gun. The village chowkidar was sent for. The children were at the house of Shamsher Singh, first cousin of the accused. P.W. 3 left for the Police Station and on the bus-stand Gurnam Singh, A.S.I. met her and recorded her statement at about 11 P.M. on the basis of which a case was registered. A.S.I. proceeded to the spot, prepared a panchnama, held the inquest and sent the dead-body for postmortem. The Doctor, who conducted the post-mortem, found a lacerated wound with inverted margins on the right side of the neck which was the entrance wound and a corresponding exit wound on the left side of the neck with everted margins. The Doctor opined that the deceased died as a result of shock and haemorrhage due to the aforesaid injuries which were sufficient in the ordinary course of nature to cause death. The accused was arrested on March 16, 1984 who produced his gun along with licence. After investigation was completed the charge-sheet was laid.

2. When examined under Section 313, Cr.P.C. the accused stated that a wordy quarrel ensued between him and his wife and at that time he was having a licensed gun with him. He was carrying the gun because of enemies in the village. He was in a drunken condition and during the grappling the gun went off accidentally as a result of which the deceased received a gun-shot injury and died. He appears to have filed an application before the D. S. P. stating these facts. He also examined

D.Ws. 1 to 3 in support of his plea. The trial Judge accepted the evidence of the eye-witness P.W. 3, the mother of the deceased and also the medical evidence and held that the accused went and brought the gun and shot at the deceased. He rejected the plea of the accused and the evidence of D.Ws. 1 to 3. Therefore the question that arises for consideration is whether it was an accident as pleaded by the accused or was a deliberate shot at the deceased as per the prosecution version. D.Ws. 1 and 2 were examined to depose that P.W. 3 was later brought from her village and that she was not at the scene of occurrence. D. W. 2 was a panch witness in the inquest report which he attested and in which the presence of P.W. 3 is given as witness of the occurrence. D.W. 2 has no explanation except stating that he did not read the contents. Admittedly he knows Punjabi language in which the inquest report was written. Therefore his explanation is not acceptable. The evidence of D.W. 2 Harpal Singh therefore is not of much consequence. D.W. 3 Jagdev Singh deposed that he is brother-in-law of the accused and that his wife had taken the son and daughter of the accused from the village. His evidence is not of much consequence. D. W. 1 Shamsheer Singh also deposed that he heard an alarm from the house of the accused and went to the house of accused and saw the accused and his wife grappling and he tried to intervene but before he could do so, the gun of the accused fired accidentally. Therefore he took the accused to D.W. 2. Harpal Singh, village Sarpanch and thereafter they went to the Police Station and gave a report. But as stated above D.W. 2 was a panch witness in the inquest report wherein the version was that he had deliberately shot at the deceased. No doubt, the contents of the inquest report cannot be treated as evidence but they can be looked into to test the veracity of D.W. 2. Thus the evidence of D.Ws. 1 to 3 is not of any help to the accused.

3. Even otherwise having regard to the question involved the Court can examine the medical evidence. To cause the injury on the neck, the gun must have come to a horizontal position because the track of the injury was straight. It was not even suggested to the Doctor that such an injury was caused by an accident due to grappling. In any event we have got the evidence of P.W. 3 the direct witness and she would be the last person to speak falsehood against her own son-in-law. The theory of accident is highly artificial and has been rightly rejected by the trial Court. The prosecution has established the guilt of the accused beyond all reasonable doubts. We see no merit in this appeal. It is accordingly dismissed.

Appeal dismissed.

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