

Mange Ram

Vs

State, Delhi Administration

(G. T. Nanavati, V. N. Khare JJ)

26.02.1998

JUDGMENT

NANAVATI J

1. The appellants have been convicted under Section 302 read with 34 IPC for causing death of Ranbir Singh. The deceased was the son-in-law of appellant No.1 Mange Ram, and husband of appellant No.2 Somwati. Both the courts below believed the dying declarations made by the deceased before the Investigating Officer and Dr Tiwari, and they have been made the basis of his conviction. We have gone through the evidence of Dr Tiwari who was the first person to record the dying declaration. He has stated that when he inquired from the patient how he had received burn injuries he had stated that at about 9.10 p.m he was in his in-laws house and his father-in-law Mange Ram and his wife put kerosene oil on him and set him on fire. The defence was not able to take out anything in his cross examination which could create any doubt regarding truthfulness of his evidence. A.S.I Harpal Singh (P.W 24) who had gone to the hospital on receiving information about admission of Ranbir Singh in the hospital has stated that he recorded the F.I.R of Ranbir Singh at about 11.45 p.m. Therein also Ranbir Singh has stated that his father-in-law and his wife had set him on fire. Both these dying declarations have been found reliable and consistent by the courts below and we see no reason to differ from that finding. The learned counsel for the appellant was not able to suggest any good reason to disbelieve the evidence of Dr Tiwari and A.S.I Harpal Singh.

2. He, however, drew our attention to the statement made by appellant No.1 Mange Ram when he was examined under Section 313 of the Criminal Procedure Code wherein he has stated that he was not residing in House No 80, which though belonged to him was in occupation of his daughter and son-in-law and that he had gone to that house after he was informed about the incident. He also drew our attention to the evidence of P.W 8 Hari Singh who has also stated that Mange Ram had come there after the neighbours had collected. He then submitted that as the version given by Mange Ram was supported by a prosecution witness it ought to have been accepted and should have been held that he was falsely involved by the appellant. O.W 8 has stated that when he had gone inside the house he had seen Ranbir Singh lying on a cot and groaning in pain. He was under the influence of liquor. But the evidence of doctor does not show that Ranbir Singh was under the influence of liquor. On the contrary his evidence is that, when he was brought to the hospital Ranbir Singh was under the influence of liquor. On the contrary his evidence is that, when he was brought to the hospital, Ranbir Singh was in full senses and was able to speak clearly. It clearly appears that P.W 8 being a neighbour was trying to help the appellant by deposing like that. Therefore, no reliance can be placed upon his evidence.

3. As we do not find any substance in this appeal it is dismissed. The appellants were released on bail.

during the pendency of this appeal. Their bail is cancelled and they are ordered to surrender to custody to serve out the remaining part of their sentence