

Nachhattar Singh

Vs

State of Punjab

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

03.03.1998

JUDGMENT

NANAVATI.J.

1.This appeal is filed by the convicted accused against the judgment of the Punjab & Haryana High Court in CrI A No 57 of 1988 dismissing his appeal against the judgment of the Sessions Court, Bhatinda in Sessions Case No 108 of 1986.

2.The appellant has been convicted under Section 302 IPC for causing death of Balwant Kaur The incident happened, in the house of Balwant Kaur To prove the case, the Prosecution had examined her two sons Daya Singh and Kulwant Singh who have stated that the appellant along with another Nachhattar Singh had killed their mother by giving blows with kulhari and gandasa The trial court believed the evidence of both those witnesses and convicted both the accused. On appeal the High Court, though believed the presence of two eye witnesses at the time of the incident gave benefit of doubt to the second accused on the ground that he had no reason or motive to kill Balwant Kaur It is difficult to appreciate the reasoning of the High Court in this behalf but as he has been acquitted and there is no appeal by the State, it is not necessary to point out how that finding is not correct.

3.The High Court has held that both Daya Singh and Kulwant Singh were present in the house at the time of the incident Their presence in their own house at that time was quite natural If they were present in their house then obviously they could have seen the assault on their mother by the appellant. Both the courts below have thought it proper to accept their evidence and we see no reason to differ from the finding recorded in that behalf.

4.The contention raised on behalf of the appellant was that the witnesses could not have been in their house at the time when the incident took place. It was late evening time and therefore their returning to the house from their shop at that time cannot be regarded as unnatural or improbable As we are of the view that the High Court was right in confirming the conviction of the appellant on the basis of the evidence of the two eye witnesses this appeal has to be dismissed.

5.This appeal is therefore, dismissed. During the pendency of the appeal the appellant was released on bail His bail is cancelled and he is ordered to surrender to custody to serve out the remaining part of the sentence.