

Surjan Singh and Another

Vs

State of Haryana

Criminal Appeal No. 833 of 1997

(G. T. Nanavati, S. P. Kurdukar JJ)

13.08.1998

JUDGMENT

NANAVATI, J.

The two appellants and one Kashmir Singh were convicted by the trial court for the offences punishable under Sections 307 and 506 both read with Section 34 IPC, by the Court of Additional Sessions Judge, Faridabad, in Sessions Case No. 31 of 1988. The High Court confirmed their conviction. All the convicted accused then filed a special leave petition in this Court. Leave was not granted to Kashmir Singh. It was granted to the appellants only.

2. The prosecution case against the appellants was that on 31-8-1988 at about 6.00 p.m., they went to the house of Bhagwan Singh and enquired from him whether he was willing or not to vacate the house in his possession. Bhagwan Singh told them that as he was the real owner of the house, the question of vacating it did not arise. Thereupon, the appellants exhorted Kashmir Singh to finish Bhagwan Singh. Kashmir Singh fired two shots from his pistol and caused injuries to Bhagwan Singh and Malkiat Singh.

3. In order to prove its case, the prosecution examined the two injured eyewitnesses and also led other evidence. After appreciating their evidence, the trial court thought it safe to rely upon it and also upon the evidence of Latkan Singh, PW 7 and Jagir Singh, PW 8, who had rushed to the place of the incident on hearing the cries of the injured. The trial court disbelieved the defence case that someone else had fired at them and caused injuries and that they were falsely involved because of a property dispute. The trial court convicted them as stated above.

4. The High Court on reappraisal of the evidence agreed with the findings recorded by the trial court and confirmed the conviction.

5. What was urged by the learned counsel for the appellant was that the evidence of the eyewitnesses was not properly appreciated by the courts below and the reasons given for accepting their evidence in spite of many infirmities therein are not proper. Having gone through their evidence, we find that it does not suffer from any serious infirmity. Their evidence was correctly appreciated by the trial court and the High Court was right in confirming the findings recorded by the trial court. All the three accused had gone together to the house of Bhagwan Singh and the way they acted thereafter leaves no doubt about their acting in furtherance of their common intention. As they have been rightly convicted under Sections 307 and 506 both read with Section 34 IPC, this appeal is dismissed.

6. The appellants are on bail. Their bail is cancelled. They are ordered to surrender to custody to serve out the remaining part of their sentence.