

SUPREME COURT OF INDIA

Ram Singh

Vs.

State of U.P.

(G Nanavati and S Kurdukar JJ.)

22.04.1999

ORDER

NANAVATI, J.

1. The three appellants - Ram Singh, Ranvir Singh and Ratibhan Singh were tried alongwith eight others for the offences punishable Under Sections 147, 302 read 149, 324 read with 149 and 323 read with 149 IPC. Ram Singh was also charged for the offence punishable Under Sections 148 and 302 IPC. The trial court acquitted all the accused. But the High Court on appeal by the State convicted Ram Singh Under Section 302, Ratibhan Singh Under Section 323 IPC and Ranvir Singh Under Section 324 IPC. They have, therefore, filed this appeal challenging their conviction and sentence.

2. The prosecution case was that on 16.10.72 at about 6.00 p.m., Parbal Kumar and Arun Kumar, both nephews of the complainant - Ravinderbhan Singh, had objected to selling of liquor by accused - Rameshwar Dayal. All the accused, therefore, went to the complainant's house on 17.10.72 at about 7.00 a.m. Accused Ravendrabhan Singh had carried a single barrel gun and other had lathis with them. First they threw some bricks towards the house of the complainant. So Vedwati, mother of Parbal Kumar, opened the door and told the accused that Parbal Kumar was not in the house and that if they wanted to kill anyone, they might kill her. Accused - Rati Bhan Singh went near her and gave a stick blow. Seeing that assault on his brother's wife, Ravinder Bhan Singh rushed to that place from the 'Chakki', which was nearby and tried to persuade the accused not to beat her. At that time, Ratibhan Singh gave a stick blow to him also. Anil Kumar, another son of Vedwati also rushed to that place to save his mother. He was also given a stick blow by Ratibhan Singh. At that time, Vedwati told Ratibhan Singh that he should really feel ashamed for beating the children. Accused - Ram Singh thereupon told others to get aside and said that he would finish the whole matter and

then fired a shot which hit Vedwati on her abdomen. Ram Singh fired two more shots. One of them hit Rakesh Kumar. Appellant - Ranbir Singh then threw a hand grenade but it slipped from his hand and accidentally fell near the hedge in front of the house of Bhagat Singh. It at once exploded and caused injuries to some of the accused and some other persons of the village including Netrapal Singh - P.W. 2, who had collected near that place by that time.

3. In order to prove its case, the prosecution had examined P.W.1 - Ravinderbhan Singh, P.W. 2 - Netrapal Singh, P.W. 3 - Anil Kumar and P.W. 4 - Ranbir Singh. Except that P.W. 4- Ranbir Singh did not give names of some of the accused and was for that reason declared hostile, he supported the prosecution. The trial court, was of the view that the witnesses had not given correct genesis of the incident and giving benefit of doubt acquitted the accused.

4. The High Court found that the reasons given by the trial court were not proper and that the evidence of the eye-witnesses was quite clear and trustworthy. The incident had taken place at about 7.00 a.m. and the FIR was lodged at the police station, which was at a distance of about 2 miles, at 7.40 a.m. Thus, within a very short time, the report was lodged with the police and it completely corroborated the evidence of the complainant. The High Court, therefore, set aside the acquittal and convicted them as stated above.

5. It was urged by Mr. KTS. Tulsi, learned senior counsel., appearing for the appellants that the medical evidence does not support the version of the eye-witnesses. It is true that the doctor who performed post-mortem on the dead body of Vedwati did not find any injury caused by a stick blow but merely on the basis of this omission, it cannot be said that no stick blow was given to her. It might not have left any visible mark. Rakesh Kumar and Anil Kumar was medically examined and on their person injuries possible by stick blows were found. Mr. Tulsi also urged that as stated by the accused the hand grenade was really thrown at the accused by Parbal Kumar. Police had also filed a charge-sheet against Parbal Kumar. Learned counsel also drew our attention to the evidence that Parbal Kumar and his father had not returned to the village for about three days. They had not remained present at the cremation of Vedwati. Relying upon these circumstances, it was submitted that the defence version that Parbal Kumar had thrown the hand grenade ought to have been accepted. We cannot accept this contention because all the witnesses including the independent witness have deposed that Ranbir Singh had thrown the hand grenade. The defence version that Parbal Kumar had thrown the grenade while accused Ram Singh and Rati Bhan Singh were passing by the house of Vedwati for going to the hospital, does not appear to be true as it does not explain the presence of other accused on the place of the incident.

6. It also does not explain the injuries on the deceased and the two witnesses. The High Court after considering this defence version, for good reasons, has rejected the same. We are in agreement with the findings recorded by the High Court in this behalf. As we do not find any substance in this appeal, it is dismissed.

7. The appellants are directed to surrender to custody to serve out the remaining part of the sentence.