

SUPREME COURT OF INDIA

State of Punjab

Vs.

Ginder Singh

Crl.A.No.502 of 2002

(Dr. Arijit Pasayat, V.S. Sirpurkar and Asok Kumar Ganguly JJ.)

03.02.2009

JUDGMENT

Dr.Arijit Pasayat, J.

1. The State of Punjab is in appeal against the judgment of the Punjab and Haryana High Court directing acquittal of the respondent who was convicted for alleged commission of offence punishable under Sec. 302 and Sec. 201 of the *Indian Penal Code, 1860* (in short 'IPC'). The other accused Manjit Kaur was convicted for offences relatable to Sec.302 read with Sec.34 IPC and 201 IPC.

2. Learned Sessions Judge, Bathinda, directed acquittal of Balbir Singh and Angrez Singh. The State questioned their acquittal in Criminal Appeal No. 203-DBA of 1996 which was dismissed by the High Court. The two convicted accused persons also filed Crl. Appeal No.308-DB of 1995 before the High Court.

3. While issuing notice on 25/1/2002 this Court had dismissed the petition qua Manjit Kaur, Balbir Singh and Angrez Singh and restricted the notice so far as the present respondent Ginder Singh is concerned.

4. The background facts as projected by the prosecution is as follows:

“First Information Report with regard to murder of Bant Singh (hereinafter referred to as 'deceased') was lodged by his brother Maghar Singh on 21.5.1994 at 5.10 a.m., which was recorded by S.I. Piara Singh P.W.-5. Maghar Singh in his statement made before S.I. Piara Singh stated that he was resident of village Mansa Khurd. They were seven brothers eldest being Bant Singh who was residing at village Bhagi Bander for the last 3 years. First marriage was solemnized with Jangir Kaur and second marriage (kareva) was performed with accused Manjit Kaur. His first wife Jangir Kaur gave birth to two sons and one daughter. Out of them, eldest was Amarjit Kaur, whereas younger to her was Balbir Singh and youngest to all was Jaswinder Singh. Amarjit Kaur was married with Nidhan Singh at Bathinda and Jaswinder Singh was also doing

labour work at Bathinda. Manjit Kaur gave birth to Virpal Kaur and accused Ginder Singh. Virpal Kaur was married with Angrez Singh. His brother Bant Singh did not have cordial relations with his younger son Ginder Singh. For this reason Ginder Singh was residing at Bathinda. On the day of Baisakhi his brother Bant Singh had given beatings to his wife Manjit Kaur and on account thereof, there was a dispute in the house. A day before lodging the FIR he alongwith Makhan Singh Ex-Sarpanch had come to village Bhagi Bander at about 4 P.M. in order to settle the dispute where the son-in-law of Bant Singh, namely Angrez Singh and Ginder Singh and Balbir Singh his nephews, his borther's wives Manjit Kaur and Jangir Kaur were present in the house. Dut to old age, the eye sight of Jangir Kaur had become weak. His brother Bant Singh came to the house at about 8 p.m. and inquired about his welfare. At that time an electric light in the courtyard was on. They started talking about the settlement of the dispute. It was about 9.30 p.m. During the course of settlement Ginder Singh and Bant Singh exchanged hot words and his brother Bant Singh stood up and started going to his room. Ginder Singh picked up a Gandhali lying nearby and gave two blows with the same on the head of Bant Singh which hit his head. Thereafter Angrez Singh took Bant Singh in his grip and Balbir Singh picked up a soti lying there and gave soti blow on shin on right leg of Bant Singh. Ginder Singh gave one more blow with Gandhali to Bant Singh which hit him on the left ear and back side of the ear. Balbir Singh gave a soti blow which hit the right side of his head as a result of which his brother Bant Singh fell down. Makhan Singh and he himself raised an alarm, "Na Maro, Na Maro" (don't kill, don't kill). When his brother Bant Singh was lying fallen, Angrez Singh continued twisting his left arm while Ginder Singh continued twisting his left knee. While Bant Singh was lying on the ground, Manjit Kaur and Balbir Singh continued giving blows thrustwise with their respective sotis on the left leg and back side of left knee and Manjit Kaur kept on saying loudly that he should be taught a lesson for giving beatings to her. As a result thereof his brother sustained injuries on his left leg. They stepped forward to rescue him but the accused tried to attack them also. His brother Bant Singh succumbed to his injuries at the spot.”

5. Out of fear they ran away outside and informed Jangir Singh Sarpanch about this occurrence. After taking along Jangir Singh Sarpanch with them, they had come to lodge the report. The cause of grudge was that about a month back on the day of Baisakhi, his brother Bant Singh had given beatings to his wife Manjit Kaur and whole family was fed up with him. On account of this grudge, all the accused had connived with one another and committed the murder of Bant Singh by inflicting injuries to him.

6. The first information report was lodged on 21/5/94 at 5.10 a.m. while the alleged offence took place on 20/5/1994 at about 9.30 p.m. The special report reached the concerned Magistrate at Bathinda on 21.5.1994 at 7.30 a.m. Two witnesses were pressed into service as eye witnesses. They were P.W. 3 and 4. The trial Court held that the presence of these two witnesses at the time of occurrence was not established. Notwithstanding such conclusion as noted above two persons were convicted.

7. In appeal the stand of the accused persons was that the FIR was delayed; the eye witnesses were disbelieved and, therefore, the question of holding the accused persons guilty does not arise. The High Court accepted the stand and directed acquittal.

8. In support of the appeal learned counsel for the appellant - State submitted that it is a peculiar case where the deceased was allegedly killed by his wife and a son, and out of two eye witnesses who were there; one was his brother and the other was his friend. That being so, there was obviously an attempt to protect the accused persons. Learned counsel for the respondent on the other hand supported the judgment of the High Court.

9. Even though it is accepted that there were two eye witnesses; one was the brother of the deceased and the other was friend and there was an attempt to protect the accused there is no credible evidence to show involvement of the accused persons in the concerned crime. That being so, their conviction would not be proper. High Court has precisely held so. That being the position, we are not inclined to interfere in this appeal.

10. Accordingly, the appeal is dismissed.