

SUPREME COURT OF INDIA

Sucha Singh

Vs.

State of Haryana

(2013) 8 SCALE 0001

(A.K. Patnaik and Gyan Sudha Misra JJ.)

20.06.2013

JUDGEMENT

A.K. Patnaik, J.

1. This is an appeal against the judgment dated 06.04.2006 of the Division Bench of the Punjab and Haryana High Court in Criminal Appeal No.294 DB of 2003.

2. The facts very briefly are that Amrik Singh, son of Fakir Singh, resident of Azad Nagar, Patiala (Punjab), used to ply a mule cart. On 31.01.1997, the appellant contacted him and hired his mule cart for Rs.600/ for carrying his household luggage from village Kamalpur, Police Station Rajound, to village Chambo Kheri, District Patiala. Accordingly, Amrik Singh left for the village Kamalpur on 31.01.1997 and was to return on the night of the same day, but did not return. His family members waited till the morning of 01.02.1997 but when Amrik Singh did not return, they became apprehensive and Fakir Singh went to the house of the appellant and met his wife who assured him that his son will return back by evening. When Amrik Singh did not return in the evening of 01.02.1997, Fakir Singh, Kaka Singh and Hardev Singh visited the house of the appellant and again they were assured by the wife of the appellant that Amrik Singh will return soon. In the meanwhile, on 01.02.1997 at about 11.30 am, one Rajinder Kumar noticed the dead body of a young man lying in a pit in the road side near village Kichhana and informed the police of Police Station, Rajound, and FIR was registered in Police Station, Rajound, under Section 302 of the Indian Penal Code (for short 'IPC'), and when inquest proceedings were carried out on the dead body, a purse and a slip were recovered from the dead body and from the slip the police was able to trace the family of Amrik Singh and informed Fakir Singh who reached the Civil Hospital, Kaithal, and identified the dead body to be that of his son Amrik Singh (hereinafter referred to as "the deceased"). Investigation was carried out and a charge sheet was filed under Sections 302 and 394, IPC, against the appellant. As the appellant pleaded not guilty, he was tried. At the trial, the prosecution examined as many as 11 witnesses. The trial court found that there was no eye witness to the incident in which the deceased was killed, but the chain of circumstances established by the prosecution proved beyond reasonable doubt that the appellant killed the

deceased and stole his mule cart. These circumstances were that the appellant hired the mule cart of the deceased and the deceased left for the house of the appellant as has been deposed by Fakir Singh (PW 2). The appellant made an extra judicial confession to Sher Singh (PW 8) who accompanied the appellant along with the mule cart that he had killed the deceased and the mule cart was produced before the police by Sher Singh (PW 8) as per recovery memo (Ex.PF). The appellant made a statement before the police pursuant to which the weapon of offence (Kassi Ex.P 22) and other articles (Exts.P 23 and P 24) were recovered. As per the reports of the Forensic Science Laboratory, Haryana, Ex.PH and Ex.PH/1, the Kassi (Ex.P 22), bed sheet (Ex.P 23) and Khes (Ex.P 24) were found to be stained with human blood of the same group of blood, which was detected on the clothes of the deceased (Shirt, Ex.P 2, Jersey, Ex.P 4 and Underwear Ex.P 5) worn by him at the time of the occurrence. On the basis of the aforesaid circumstantial evidence, the trial court convicted the appellant under Sections 302 and 394 IPC, saying that the case of the prosecution was a full proof case, and sentenced him to undergo rigorous imprisonment for life and fine of Rs.2000/ for the offence under Section 302 IPC and for a period of 7 years rigorous imprisonment and fine of Rs.1000/ for the offence under Section 394 IPC. The trial court further ordered that the sentences were to run concurrently. Aggrieved, the appellant filed the Criminal Appeal No. 294 DB of 2003 in the High Court, but by the impugned judgment the High Court dismissed the appeal and maintained the conviction and sentences against the appellant.

3. Learned counsel for the appellant submitted that there was no eye witness to the occurrence and the conviction of the appellant was solely based on circumstantial evidence. He submitted that the trial court was not right in convicting the appellant for the following reasons: (i) Though the prosecution cited many witnesses in the charge sheet, it examined only 11 witnesses. (ii) The extra judicial confession alleged to have been made by the appellant to Sher Singh (PW 8) ought not to have been believed. (iii) The statement of the appellant to the police, on the basis of which disclosure was made, was made under pressure from the police and there were no independent witnesses to the recoveries made pursuant to the statement. (iv) The FIR has not been proved through the policeman who has received the FIR, namely, Ranbir Singh. (v) The motive of the appellant to kill the deceased has not been established by the prosecution. Learned counsel for the appellant submitted that this is, therefore, a fit case in which the appellant should be acquitted of the charges. ;