

## **State Of Punjab And Gurmej Singh vs Jit Singh And Others, Etc. on 29 January, 1992**

**Equivalent citations: AIR1994SC549, 1994CRILJ1116, AIR 1994 SUPREME COURT 549, 1994 AIR SCW 420 1995 SCC(CRI) 156, 1995 SCC(CRI) 156**

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**Bench: R.C. Patnaik**

### **JUDGMENT**

K. Jayachandra Reddy, J.

1. These two appeals are pursuant to the leave granted under Article 136 of the Constitution of India. The State as well as the complainant have filed these appeals. Mr. Jit Singh, the sole respondent was convicted for an offence punishable under Section 302 of the Indian Penal Code. The prosecution examined the two eyewitnesses. The Sessions Court relying on the evidence convicted the respondent under Section 302, I.P.C. but the High Court allowed the appeal and acquitted him.

2. As against the order of the High Court these appeals are filed. We have heard the respective counsel elaborately. The case rests mainly on the evidence of the two eyewitnesses P.W.2 Gurmej Singh, son of the deceased and P.W. 3 who is a member of the Panchayat. Admittedly there was an enmity between the deceased family and the accused family. At about 10.15 p.m. the deceased was present at his tubewell for keeping watch over the cattle during night. The witnesses submit that the accused and one stranger gave the lathi blows on the head of the deceased. The stranger could not be recognised as he was not of the same village. P.Ws. 2 and 3 raised a lalkara and thereupon both the culprits ran away, then they took Mehar Singh to the Hospital in a car where he died. Accordingly Ranjit Singh P.W. 7 recorded statement of Exhibit PC of Gurmej Singh in respect of the occurrence at 3.15 a.m. on the same date and sent the same to the Police Station where on the basis of which First Information Report was registered and completed at 3.30 a.m. and the same was sent to the Magistrate at 6.30 a.m. on the same day.

3. The Division Bench of the High Court having examined the evidence of the two eyewitnesses came to the conclusion that they were highly interested witnesses and whether their presence can be accepted at all, is the question. P.W. 3 is in no way related to the deceased or to the P.W. 2. He gave an explanation for his visit to the tubewell along with P.W. 2 before the Police Station was to irrigate the land of PW 2 whereas in the present deposition he prevaricated and deposed that he went to the tubewell of the deceased to inform him about the collection of meagre amount of money for

presenting the same to the contesting candidate. The High Court noticed that this prevarication shows that he has deliberately improved his version from stage to stage. When interested witnesses are examined it is well settled that the evidence has to be tested in the light of the probabilities and the previous statements and the surrounding circumstances. We are satisfied that their evidence does not inspire any confidence. In the F.I.R. it is stated that P.W. Nos. 2 and 3 went to irrigate the field from that tubewell water but while giving statements at the trial they deposed that only P.W. 2 was to irrigate the field by working the tubewell while P.W. 3 had accompanied him to the tubewell to meet the deceased as mentioned above. Their presence thus becomes doubtful from the fact that they have not come forward with a proper explanation for giving two versions. In these circumstances we cannot say that the High Court went wrong in ordering acquittal. These appeals are dismissed accordingly.