

## **Amrik Singh And Ors. vs State Of Punjab on 25 July, 1980**

**Equivalent citations: AIR1981SC1171, 1981CRILJ634, 1980SUPP(1)SCC315, 1981(13)UJ323(SC), AIR 1981 SUPREME COURT 1171, 1981 SCC(CRI) 252, 1980 CRIAPPR(SC) 369, 1980 SCC(SUPP) 315, 1981 UJ (SC) 323**

**Bench: A.C. Gupta, P.S. Kailasam**

### **JUDGMENT**

A.G. Gupta, J.

1. The three appellants before us were convicted by the Additional Sessions Judge, Ferozapore, under Section 302 of the Indian Penal Code for the murder of one Anoop Singh and were sentenced to imprisonment for life and to pay a fine of Rs. 200/- each. They were also found guilty of an offence under Section 449 of the Penal Code and were sentenced to 7 years rigorous imprisonment. The Punjab and Haryana High Court dismissed the appeal preferred by the accused against the decision of the trial court. Before us the judgment of the High Court has been assailed on four grounds. It is contended that the time of occurrence was advanced by the prosecution to 6.00 p.m. but the incident took place much later. The basis of the contention is the presence of 4 ounces of semi-digested food in the stomach of the deceased. The implication of the argument seems to be that if the incident took place when it was dark, question of identification of the accused persons would arise. Anoop Singh was murdered when he was operating a Chaff cutter machine in the courtyard of his house and so in any case there would be light in the place to enable him to operate the machine. This contention therefore has no substance.

2. It is next urged that the prosecution case is not consistent with the medical evidence. The evidence of Harnam Singh, father of the victim, who was an eye witness is that two of the accused were armed with rifles and one with a 2 bore gun and that all of them fired at his son. Counsel for the appellants argues that this evidence is not consistent with the fact that the injuries on the person of the deceased were pellet injuries. We do not think that there is any inconsistency here. It could be that only the shots from the 12 bore gun that hit the victim. One is also not sure that the second injury mentioned in the injury report was not a bullet injury.

3. A plea of alibi was taken by one of the accused Ajit Singh who was in the army. According to him though he was on leave at the time when the occurrence took place, he had left the village and had joined his unit. He had certain documents summoned from his unit. Court Witness No. 2 produced a certificate which bears endorsement to the effect that the Appellant Ajit Singh joined on 18th September, 1971 at 5 00 p.m. Court Witness No. 1 Ajaib Singh produced a guest register of the Sikh Regimental Center, Meerut, showing that on 17th September, 1971 a guest named Haveldar Ajit Singh came to meet Lance Naik Gutar Singh at 8 am and left at 4.00 p.m. The High Court found it

significant that neither Lance Naik Gutar Singh with whom Ajit Singh is supposed to have stayed as guest, nor the Subedar Major before whom his host had to present him in accordance with the procedure to establish his identity, had not been examined. The High Court held, therefore, that Ajit Singh had failed to establish his alibi. We find no reason to take a different view.

4. A point was also raised about the delay in lodging the F.I.R. It has been found that the incident was reported to the police at 9.50 p m. and the FIR was lodged at 10 15 p.m. A special report had reached the Elaga Magistrate before 6 p.m. next day although the distance between the Police Station and the residence of the Magistrate was not less than 16 miles. There is, therefore, no substance in this plea.

5. The appeal has no merit and is dismissed.