

Sardul Singh And Ors. vs State Of Punjab on 27 July, 1993

Equivalent citations: AIR1994SC672, 1994CRILJ626, 1993(2)CRIMES1174(SC), 1993(3)SCALE227, 1993SUPP(3)SCC678, AIR 1994 SUPREME COURT 672, 1993 AIR SCW 4092, 1993 (2) UJ (SC) 487, 1993 (3) SCC(SUPP) 678, 1993 SCC(CRI) 1092, 1993 JT (SUPP) 569, (1993) 2 ALLCRILR 819, (1993) 3 CURCRIR 292, (1993) 3 SCJ 195, (1993) 2 CRIMES 1174

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Bench: G.N. Ray

JUDGMENT

K. Jayachandra Reddy, J.

1. This appeal is filed under Section 379 Cr. P.C. read with Section 2 of the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act. There are three appellants. Sardul Singh, A-1 is the father of Satnam Singh, A-2 and Mohan Singh, A-3. They were tried by the Sessions Judge, Patiala for offences punishable under Sections 302/34 and 323/34 I.P.C. but were acquitted. The State of Punjab filed an appeal against the said order of acquittal and the High Court by the impugned judgment accepted the State appeal and set aside the acquittal of the appellants and convicted them under Sections 302/34 I.P.C. and sentenced each of them to undergo imprisonment for life. Satnam Singh, A-2 was further convicted under Section 323 I.P.C and the other two accused were also convicted under Section 323/34 I.P.C. and sentenced to undergo six months' R.I. The sentences were directed to run concurrently. Hence the present appeal.

2. This is a case of matricide. As already mentioned, A-1 is the father of A-2 and A-3. P.W. 2, Malook Singh is the brother of A-1. The father of P.W. 2 and A-1 died four years prior to the occurrence leaving 19 Killas of land which was divided into three shares. 7 Killas each came to the share of A-1 Sardul Singh and P.W. 2 Malook Singh and remaining 5 Killas remained with their mother Sant Kaur, the deceased who was residing with P.W. 2. Therefore the land of her share was also cultivated by P.W. 2. A-1 Sardul Singh, however, wanted that the land of the share of the mother also should be equally divided between the two brothers for which the deceased did not agree as she wanted to give her share to P.W. 2 who was rendering service to her. Therefore A-1 nursed a grievance against her mother. On 23.1.0.78 at about 9 or 10 P.M., P.W. 2 along with his wife Kapur Kaur, daughter Mahant Kaur and the deceased, after taking their meals, was sitting in the compound of their farm-house. While so A-1 Sardul Singh and A-2 Satnam Singh armed with gandasis and A-3 Mohan Singh armed with a sua came there and dragged the deceased to the nearby Roori. A-1 gave a

gandasi blow on her head and then A-2 also gave a gandasi blow on her head and A-3 gave a sua blow above her right eye-brow. Kapur Kaur wife of P.W. 2 in order to save the deceased lied herself on the deceased but A-2 and A-3 inflicted injuries on her also. Thereafter all the accused gave numerous injuries on the deceased and ran away with their weapons. The deceased died on the spot. P.W. 2 who witnessed the occurrence went to the Police Station and gave a report at 7.15 A.M. on the morning of 24.10.78 and a case was registered. The inquest was held over the dead body and the same was sent for post-mortem. The Doctor, P.W. 1, who conducted the post-mortem found 16 injuries all over the dead body and he opined that the death was due to injuries on the scalp and brain which were sufficient in the ordinary course of nature to cause death. The Doctor also noticed that the stomach of the deceased contained 150 gms. of semi-digested food. Another Doctor, P.W. 14 noticed three injuries on the person of Kapur Kaur, P.W. 3. The accused were arrested and after completion of the investigation, the charge-sheet was laid.

3. The prosecution mainly relied on the evidence of three eye-witnesses namely Malook Singh, P.W. 2, his wife Kapur Kaur, P.W. 3 and daughter Mahant Kaur, P.W. 4 who figured as direct witnesses. The accused pleaded not guilty and stated that they were falsely implicated. The trial court rejected the evidence of these three eye-witnesses holding that the occurrence must have taken place sometime in the night and not earlier as deposed by these witnesses. In coming to this conclusion, the trial court relied on the circumstance that semi-digested food was found in the stomach of the deceased and therefore the occurrence must have taken place long after having taken the food and not immediately thereafter as spoken to by the P.Ws. The trial court observed that if the deceased had taken meals at about 8 or 9 P.M. as stated to by the eye-witnesses then the occurrence must have taken place some time around 1 A.M. and therefore the testimony of the eye-witnesses is completely contradicted by the medical evidence. The trial court also pointed out some discrepancies regarding the place of occurrence. It was observed that the body was found near the Roori and not in the compound and the evidence of the eye-witnesses to the effect that the deceased was dragged to the Roori, is not supported by the medical evidence inasmuch as no injuries due to dragging were found. The trial court also pointed that according to P.W. 2 they were sitting in the compound of the house from where the deceased was dragged but P.Ws 3 and 4 stated that they were sitting in the kitchen from where the accused dragged the deceased. According to the trial court this is a material discrepancy which goes to the very root of the case. The trial court also pointed out that there was a discrepancy regarding the spot where the electric light was there and there was improvement in their deposition in this regard namely whether light was in the verandah or in the kitchen. The trial court also pointed out that the discrepancies regarding the manner in which the injuries were inflicted between the evidence of one witness and the other. The trial court further pointed out that the evidence regarding the motive is not very satisfactory. These are the main reasons given by the trial court for acquitting the accused.

4. The High Court has examined the evidence of P.Ws 2,3 and 4 in great detail. It must be noted that there cannot be any dispute that the occurrence took place near the house in which P.Ws 2,3 and 4 were staying. Further P.W. 3 was injured. The F.I.R. was given promptly in which all the details were mentioned. The presence of P.W. 3 is further fortified by the fact that she also received injuries as stated by her and the medical evidence supports her version. A feeble attempt was made to show that these injuries could have been self-inflicted. We see absolutely no basis for the same having

regard to the nature of the injuries on P.W. 3.

5. Learned counsel appearing for the appellants submitted that no independent witness has come forward to speak about the occurrence or at least about the movements of the accused while coming or going. Learned counsel further submitted that the fact that the dead body was found near the Roori would show that somebody in the later part of night might have attacked the deceased when the old lady came out to answer the call of nature.

6. We see absolutely no reason to discredit the evidence of the three eye-witnesses whose presence cannot be doubted. Now coming to the semi-digested food, it cannot be ruled out that the old lady might not have eaten anything earlier. Merely because the illiterate witnesses stated that they took their meals immediately before the occurrence cannot by itself be a circumstance to discredit their evidence on the basis of medical evidence regarding the presence of semi-digested food. It is also clear from the text-books on medical jurisprudence that the stomach contents cannot be determined with precision at the time of death. As rightly held by the High Court, the trial court grossly erred in basing its verdict mainly on the nebulous medical observation. As noted above the trial court has given undue importance to some insignificant facts and trivial things. The trial court commented that P.W. 2 did not make any effort to inform any village officer on that night itself. P.W. 2 in his evidence has categorically stated that he did make attempt to contact somebody but could not do so. Even otherwise we do not think that there is any inordinate delay in his case in giving the report. All the details are mentioned in the F.I.R. The comment of the trial court about the electric light also is illogical and unsound. The accused are not strangers to P.Ws. The three eye-witnesses have given some details about the manner in which the injuries were inflicted. Assuming there are some variations, they are insignificant. There are a number of injuries on the deceased and each witness cannot be expected to note the details in seriatum. The view taken by the trial court is perverse. The only possible view in this case is that the evidence of the three eye-witnesses established the guilt of the appellants beyond all reasonable doubt. In the result this appeal is dismissed.