

Lance Dafadar Joginder Singh vs Union Of India (Uoi) And Ors. on 16 August, 1993

Equivalent citations: 1993(3)CRIMES544(SC), JT1993(5)SC332, 1995SUPP(3)SCC232, AIRONLINE 1993 SC 69, 1995 SCC (L&S) 1149, (1996) 1 SERV LR 149, (1995) 30 ATC 637, 1995 SCC (SUPP) 3 232, 2005 (11) SCC 546

Bench: Kuldeep Singh, B.P. Jeevan Reddy

ORDER

K. Jayachandra Reddy, J.

1. Appellant No. 1, Joginder Singh is the father of Appellant No. 2, Jit Singh and Appellant No. 3, Mela Singh. These appellants alongwith five others were tried for offences punishable under Sections 148 and 302/149 I.P.C. The trial court convicted six of them under Sections 302/149 I.P.C. and sentenced each of them to undergo imprisonment for life. They were also convicted under Section 148 I.P.C. and sentenced to undergo six months' R.I. The rest two persons were acquitted by the trial court. The six convicted accused preferred an appeal to the High Court. The High Court acquitted three of them and confirmed the convictions and sentenced passed against the present appellants. Hence the present appeal.

2. The prosecution case is as follows.

3. The accused, the deceased and the material witnesses belong to Village Bugra, District Sangrur. About 4/5 months prior to the present occurrence, Jit Singh, one of the appellants herein had cut indecent jokes with the daughter of Kartar Singh, P.W. 3., who was in the fields. She complained to her father, P.W. 3, who along with Babu Singh, the deceased, went to the house of Joginder Singh (Appellant No. 1) to lodge a protest. They found Mohinder Singh, an acquitted accused, also there and complained to him. There was an altercation and Mohinder Singh received some injuries and thereafter the Panchayat got a compromise effected. On the day of occurrence i.e. 16th August, 1979 at about 6 AM. the deceased had gone to his fields to answer the call of nature. About four or five minutes thereafter P.W. 3 also went to the fields. The deceased sat in the field of Gulzar Singh for the purpose of easing himself. Thereupon Jit Singh and Mela Singh, Appellant Nos. 2 and 3 respectively, armed with gandasas emerged out of the chari field and challenged the deceased who got up and ran up in the direction of his house. Then it is alleged that some of the acquitted accused appeared from behind. Ultimately all the accused encircled the deceased. P.W. 3 ran in that direction and raised cries. Pritam Singh, one of the acquitted accused is alleged to have given a gandasa blow on the deceased on receipt of which he fell down. Then Avtar Singh, another acquitted

accused gave a gandasa blow from its blunt side on P.W. 3. Thereupon the appellants and the other acquitted accused started giving blows to the deceased and P.W. 3. After causing injuries they left. P.W. 4 helped P.W. 3 in getting up and they found that Babu Singh was dead. P.W. 5 also reached the place of occurrence. P.W. 3 was examined medically and he gave a report to the police. The case was registered and the investigation was commenced. The inquest was held on the dead body of the deceased and the same was sent for post-mortem. The Doctor, P.W. 2 found one incised wound and 11 blunt weapon injuries. On internal examination, he found that there was a fracture of the right parietal bone under injury No. 1 and that proved to be fatal. The acquitted accused Mohinder Singh was also examined by P.W. 1, another Doctor and there were five injuries on him.

4. The accused denied the offence and stated that they were falsely implicated. The prosecution case rested on the evidence of P.W. 3, the father of the deceased and P.W. 4 who claimed to be an eye-witness. The trial court convicted six of the accused persons, as already stated. The trial court considered their evidence and observed that the possibility of false implication of three of the convicted accused cannot be ruled out. Having stated so, the High Court acquitted three of the accused. At more than one place, the High Court pointed out that the false implication of the acquitted accused cannot be ruled out. Without further discussion, the High Court convicted the three appellants solely on the ground that they had motive to attack. It may be mentioned that the evidence of P.Ws 3 and 4 is to the effect that quite a few of the acquitted accused inflicted injuries with sharp-edged weapons. But their evidence is rejected in respect of other five accused solely on the ground that they could have been falsely implicated. In our view, the same reasoning applies to the case of the present appellants also. If that be the position, the appellants cannot be treated as a different category merely on the ground that they had motive and on that basis they could not have been convicted when the evidence of the eye-witnesses was found to be highly unsatisfactory. The High Court has committed an error in convicting the present appellants having rejected the evidence of the eye-witnesses in respect of the other accused.

5. Accordingly the appeal is allowed. The convictions and sentences passed against the appellants are set aside. If they are on bail, their bail bonds stand cancelled.