

Sital Singh vs State Of Punjab on 5 April, 1983

Equivalent citations: AIR 1983 SC 652, 1983 CRILJ 1042, 1983(1)CRIMES1011(SC), 1983(1)SCALE319, (1983)3SCC266, AIR 1983 SUPREME COURT 652, 1983 (3) SCC 266, 1983 CRILR(SC MAH GUJ) 221, 1983 CRIAPPR(SC) 291, 1983 (1) CRIMES 1011, 1983 SCC(CRI) 612

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Bench: M.P. Thakkar, Ranganath Misra, V. Balakrishnan Eradi

JUDGMENT

Ranganath Misra, J.

1. This appeal by special leave is directed against the confirming judgment of the Punjab & Haryana High Court upholding the conviction of the appellant for offences punishable under Sections 302 and 324 of the Indian Penal Code and sentences of imprisonment for life and a fine of Rs. 2,000/-, in default rigorous imprisonment for two years and a fine of Rs. 500/- with a default sentence of rigorous imprisonment for six months in three sets with a direction that the sentences of imprisonment would run concurrently.

2. One Gurdial Singh and his three sons Sital Singh, Avtar Singh and Narvail Singh were put on trial on the charge of murder of one Baldev Singh and for causing injuries to several others. Prosecution alleged that at about 8 p.m. on March 27, 1980, Harbhajan Singh (PW. 3), his two sons Baldev Singh (deceased) and Balvinder Singh, and some others who were near the tubewell were returning to their respective houses. On the way near the village Primary School, the accused persons who were armed with fire arms and a spear met them. Avtar Singh started abusing Harbhajan Singh for helping one Balkar Singh in getting released on bail in a proceeding under Section 107 of the CrPC. Mutual threats followed and soon Sital Singh fired a shot at Baldev Singh which hit him below the abdomen. Avtar Singh fired from his pistol which hit Baldev Singh on the back and he fell down. Gurdial and Sital fired from their guns and injured many others. Baldev died on the way to hospital.

3. Defence was one of complete denial of the charges. The trial court acquitted Narvail Singh on benefit of doubt and convicted the three others under Sections 302 and 324, I.P.C. On appeal, the High Court acquitted Gurdial Singh by doubting his presence at the incident and acquitted Avtar Singh in respect of the charge under Section 302, I.P.C. The appeal of Sital Singh was dismissed and he has come up to this Court challenging his conviction.

4. Special leave was confined to consideration of the nature of the offence and the quantum of sentence.

5. The medical evidence indicates that the gunshot hit the deceased on the upper right thigh. That also was the statement in the First Information Report. The High Court has recorded a clear finding that there was no pre-meditation. Mr. Mulla has taken us through the relevant evidence for supporting his submission that this is not a case where charge of murder can be sustained. On the material placed, we are of the view that it would be just and proper to vacate the conviction under Section 302 and in lieu thereof convict the appellant under Section 304, Part I, of the Penal Code. Keeping in view the nature of the offence, the setting in which the incident took place and the age of the appellant (he was 19 at the time of the occurrence), we consider that a term of seven years' rigorous imprisonment would meet the ends of justice. The sentence of fine of Rs. 2,000/- with its default sentence which has been imposed in the courts below shall be sustained as a punishment for the offence under Section 304, Part I. The conviction and sentence for the offence under Section 324, I.P.C. are also sustained, in view of the direction of the courts below that the fine, if realised, would be paid by way of compensation to the bereaved family. The appeal is disposed of with the modification of conviction and sentence indicated above.