

State Of Haryana vs Lakhbir Singh And Another on 11 September, 1990

Equivalent citations: AIR 1990 SC 2154, 1990 CRILJ 2274, 1990(3) CRIMES 752(SC), JT 1990(3) SC 830, 1990(2) SCALE 503, 1991 SUPP(1) SCC 35, AIR 1990 SUPREME COURT 2154, (1991) EAST CRIC 77, (1990) 2 RECCRIR 552, (1991) 2 SIM LC 52, 1990 UP CRIR 440, 1991 SCC (SUPP) 1 35, (1991) 1 CRILC 283, (1991) 1 CHANDCRIC 122, 1991 CHANDLR(CIV&CRI) 539, 1990 CRILR(SC&MP) 638, (1990) 3 CRIMES 752, (1990) 3 JT 830 (SC), 1991 SCC (CRI) 242

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Bench: S.R. Pandian

ORDER

S. Ratnavel Pandian, J.

1. The State of Haryana by special leave has filed this appeal against the judgment of the High Court of Punjab and Haryana rendered in Criminal Appeal No. 483/74 whereby the High Court had allowed the said appeal preferred by the respondents 1 and 2 and acquitted them of their convictions under Section 302 IPC and under Section 302 read with Section 109 IPC respectively and the sentence of imprisonment for life and fine of Rs. 500/- in default to undergo imprisonment for a further period of two years, imposed by the Additional Sessions Judge, Hissar. The relevant facts of the case are as follows.

2. Jagdish Chander (PW-3 and Krishan Kumar (the deceased herein) are the sons of one Sheo Narain. On 25.6.1972 at about 6.30 P.M. whilst the deceased Krishan Kumar was proceeding to his field after taking his meal, was laid by the first respondent, who was armed with a single barrel 12 bore gun and accompanied by the second respondent, Dalip Singh. He abused the deceased in filthy language to which the deceased took a strong objection. This led to a quarrel between them. PW-3 on being attracted by the hue and cry emanating from the scene of occurrence proceeded to the scene accompanied by one Jai Narain and found Krishan Kumar and the second respondent grappling, each one pulling the hair of the other. During the scuffle, the first respondent, at the instigation of the second respondent, fired a shot at the deceased who on receipt of a gun shot wound on the right side of his face fell down. Thereafter, both the respondents made good their escape. PW-3 leaving Jai Narain near the injured Krishan Kumar came to the village and took his father Sheo Narain, to the place of occurrence. On enquiry by Sheo Narain, Krishan Kumar told that

the first respondent fired a shot at him. Then Sheo Narain went to the police station, Tchana and laid the report at about 4.30 A.M.

3. The Assistant Sub-Inspector of Police after registering the case went to the scene of occurrence. In the meantime, Krishan Kumar had died. A.S.I. took up the investigation and he recovered a fired cartridge from the scene spot and two bills marked as Ext. P.S. and P.T. which were the bills for purchase of ammunition by the first respondent.

4. A.S.I, arrested the first respondent on 28.6.1972 and recovered the weapon of offence, namely, the gun. He sent the fired cartridge and the gun to the Forensic expert who after examining them gave his opinion that the fired cartridge recovered from the scene of occurrence had been the one fired from the gun.

5. The Medical Officer who conducted post-mortem examination on the dead body of the deceased found as many as 4 gun shot wounds and gave his opinion that the deceased had died on account of the gun shot injuries to the lungs and the said injuries were sufficient in the ordinary course of nature to cause death. PW-3 and Jai Narain figured as eye witnesses whilst Sheo Narain deposed that the deceased gave an oral dying declaration saying that he was shot by the first respondent. Both the respondents were examined under Section 342 of the CrPC (old). They denied their complicity with the offence in question. The learned trial Judge convicted both the respondents for the offences charged and sentenced them as aforesaid. Both the convicted respondents preferred the Criminal Appeal before the High Court which for the following reasons set aside the judgment of the Trial Court and acquitted the respondents. They are:

1. The occurrence took place at about sun-set.
2. The medical evidence is irreconcilably in conflict with the prosecution version in that while the deceased is said to have left his house after taking his last meal, the medical officer has opined that the deceased would have taken his last meal about 3 hours before his death.
3. The circumstances when examined in the light of the medical evidence show that the occurrence should have taken place by about 9.30 P.M.
4. Whilst the evidence of the eye witnesses is that only one shot was fired, the doctor is of the definite opinion that injuries 1 and 2 found on the person of the deceased were as a result of two separate and independence shots.
5. The very fact that PW-3, who is none oilier than the brother of the deceased had not taken any step to remove the alleged injured Krishan Kumar to the hospital to save his life indicates that Krishan Kumar should have died instantaneously on receipt of the injuries.

6. Considering the nature of the injuries inclusive of the injuries to the tongue and mouth of Krishan Kumar, the Medical Officer is of the firm opinion that Krishan Kumar could not have uttered any word after receipt of the injuries.

7. The evidence of Sheo Narain that his son gave an oral dying declaration is nothing but a tissue of falsehood.

8. The conspicuous omission in the first information report about the presence of the fired cartridge at the scene discredits the prosecution version that the fired cartridge was recovered from the scene by the investigating officer.

6. The plea of the appellant, namely, the State in the present appeal that the reasons assigned by the High Court for recording the order of acquittal are erroneous, cannot be accepted for a moment since in our considered opinion the High Court has given valid and weighty reasons for its inassailable logical conclusion. As rightly pointed out by the High Court, the entire version of the prosecution and the evidence of the eye witnesses as well the evidence of Sheo Narain are directly in conflict with the opinion of the Medical Officer whose opinion is based on the nature of the injuries suffered by the deceased and the presence of semi-digested food in the stomach of the deceased. Therefore, the conclusion arrived at by the High Court, in our view, cannot be termed as either perverse or fallacious and hence we do not find any compelling reason to take a contrary view to that of the High Court.

7. In the result, the appeal is dismissed.