

Ramjas vs State Of U.P. on 17 April, 1973

Equivalent citations: (1973)2SCC8, 1973(5)UJ654(SC), AIRONLINE 1973 SC 1, 1973 (2) SCC 8

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Bench: K.K. Mathew

JUDGMENT

Mathew, J.

1. Ram Jas, his brother Ram Nath and their relation Kapil Deo were charged by the Additional Sessions Judge, Ghazipur, under Section 307 read with Section 34 of the Indian Penal Code. The case against them was as follows. Baleshwar Singh (PW-1) was doing PAIRVI in a litigation between the accused and one Jagardeo Bhar (PW-6) and there was enmity between him and the accused. On November 10, 1966, one Indra Deo informed Baleshwar Singh that he had overheard the accused conspiring to kill him for doing pairvi for Jagardeo Bhar. As Baleshwar Singh apprehended danger to his life, he requested Jagannath (PW-2) to come and sleep in his house. Jagannath came and slept under a neem tree near the house of Baleshwar Singh on the night of November 10, 1966. Baleshwar Singh had kept a lighted lantern hanging from the end of the roof of the house. At midnight, he woke up when the quilt with which he had covered himself was pulled away by the accused. At the time Ram Nath had a lathi, Ram Jas had a spear and Kapil Deo hit Baleshwar Singh with Pharsa on his leg. Ram Nath gave a blow with his lathi which hit the roof of the ahopper. After the assault the accused ran away. Hearing the alarm raised by Baleshwar Singh, PW-3 woke up. The father of Baleshwar Singh (PW-4) who was sleeping inside came out of the house. PW-3, a neighbour also came. They chased the accused with torch light but could not catch them.

2. Baleshwar Singh lodged the first Information Report on the morning of November 11, 1966 at about 4 A.M. wherein he gave the names of the accused as his assailants. He was medically examined at the District Hospital, Ghazipur on November 11, 1966 at 9 a.m. and exhibit Ka-8 is the injury report.

3. The additional Sessions Judge, Ghazipur, convicted the accused of the offence and he sentenced Ram Jas to six years rigorous imprisonment and a fine of Rs. 500/- Kapil Deo to five years rigorous imprisonment and a fine of Rs. 300/- and Ram Nath to 3 years rigorous imprisonment and a fine of Rs. 200/-.

4. All the accused filed appeals to the High Court. The High Court, after discussing the evidence came to the conclusion that the evidence of PW 1 was not very clear as to acts attributed to Ram

Nath and Kapil Deo, that PWs. 2, 3 and 4 could not be believed, and gave the benefit of doubt to Kapil Deo and Ram Nath and acquitted them. But the High Court held, on the basis of the evidence of Baleshwar Singh, that it was the appellant who had inflicted the injuries mentioned in exhibit Ka-8 with the spear. The Court, therefore, convicted the appellant (Ram Jas) of the offence under Section 307 and sentenced him to rigorous imprisonment for six years.

5. In this appeal, by special leave, it was urged on behalf of the appellant that when the High Court acquitted the other two accused after giving them the benefit of doubt, it was not improper for the court to have convicted the appellant on the basis of the interested testimony of PW-1.

6. We see no substance in this contention. The High Court discussed the evidence of Baleshwar Singh (PW-1) and gave cogent reasons for believing it so far as the acts attributed to the appellant were concerned.

7. There was light where Baleshwar Singh was Sleeping as Baleshwar Singh had lighted a lantern and hung it before he went to bed. That was quite natural in the light of the apprehension entertained by him. The evidence of Baleshwar Singh is clear that the appellant alone was armed with spear. The injuries No. 1, 2, 3 and 4 in exhibit Ka-8 report could have been caused only by a spear. The statement of Baleshwar Singh in his evidence that he was sustained injuries on his arm, thigh and paniri is corroborated by medical evidence. In these circumstances we do not think that we would be justified in interfering with the finding by the High Court that it was the appellant who caused these injuries.

8. Counsel for the appellant argued that the only charge against the appellant was one under Section 307 read with Section 34 of the Indian Penal Code and when the High Court acquitted the other accused, the appellant could not have been convicted of the offence under Section 307 read with Section 34 of the Indian Penal Code. We see no substance in this argument because the appellant was convicted on the basis of the individual act committed by him and not on the basis of any constructive liability.