

Delhi High Court

Roshan Lal vs State on 30 January, 1992

Equivalent citations: 1992 (46) DRJ 554

Author: V Banaal

Bench: V Bansal

JUDGMENT V.B. Banaal, J.

(1) His order is to dispose of an application moved by Roshan Lal Petitioner for bail for the offences under Section 302/397/3 read with Sec 34TPC. Police Station Nangloi.

(2) Briefly slated the case of the prosecution has been that Lala Harkishan Dass complainant has been carrying on business at Nangloi though he has been a resident of Bahadurgarh. S/Shri Sham Sunder, Hans Raj, Raju and Krishan sons of Mohan Lal have been working as property dealers at Bahadurgarh. Some time before 4th March, 1991 they got a deal settled in respect of a property of Suresh Singhal r/o 34/56, West Punjabi Bagh in favor of Tilak Raj, Tarsem and Sarover r/o Gurdaspur, Some differences, however, arose between them in respect of the aforesaid deal. In these circumstances, Suresh Singhal and Sham Sunder and others made a request to Lala Harkishan Dass to get their disputes settled and with this aim both the parties agreed to come to the office of the complainant Lala Harkishan Dass at about 4 00 P.M. on 4th March, 1991.

(3) On the aforesaid date Sham Sunder along with his brothers Raju, Hans Raj and Krishan reached the office of Lala Harkishan Dass at about 4.00 P.M. where Tilak Raj, Tarsem and Sarover were also present. Suresh singhal and his father Pritpal while accompanied by another person reached the said office at about 5.10 P.M. and immediately thereafter hot words were exchanged between Sham Sunder and Suresh Singhal. At that time Suresh Singhal took out a revolver from his pocket and fired at Sham Sunder. There was commotion in the office and Harkishan Dass along with others came out from the back door of the said premises Lala Harkishan Dass subsequently came to know about the death of Sham Sunder and about the Injuries of others. Suresh Singhal, his father and their companion left behind their Maruti Car DL-4C-0532 and escaped in a Fiat Car of one Subhash which was parked at the spot.

(4) Krishan and Hans Raj brothers of Sham Sunder also sustained injuries in this incident. Krishan was declared dead when taken to the hospital while Hans Raj survived, though he had also received bullet injuries.

(5) Prosecution placed reliance upon the statements of Hans Raj injured, Raj Kumar both brothers of the deceased besides the statement of the complainant Lala Harkishan Dass and the statements of Tilak Raj, Tarsem and Sarover. During the recording of the statements of the eye witnesses it was found that the petitioner was the third companion of Suresh Singhal and 556 Pritpal Singhal and that at the instance of Suresh Singhal the petitioner had gone to the Maruti Car to bring the rifle from there.

(6) Learned Counsel for the petitioner has submitted that the petitioner was not named by eye witness of this incident and that no role has been attributed to Roshan Lal. He has also submitted

that in the Fir there has not been any mention of the petitioner having been asked to bring a gun from the Maruti Car. He has also submitted that the petitioner is not in any way connected with Suresh Singhal and his father and so prayer has been made for his release on bail.

(7) Application has been opposed by learned Counsel for the respondent who has submitted that the petitioner shared common intention with Suresh Singhal and Pritpal Singhal which is apparent from the facts that immediately after reaching the premises of Lala Harkishan Dass Suresh Singhal picked up a quarrel and immediately fired at Sham Sunder. He has also submitted that the common intention of the petitioner shared with the co-accused is apparent from the fact that he had gone to the Maruti Car to bring the gun from there and the only purpose of asking for the gun was to fire at the persons who started running from the office of the complainant. He has also submitted that the petitioner ran away from the spot along with his co-accused and he was arrested at the Igi Airport along with Pritpal Singhal. He has also submitted that in this incident two brothers lost their lives and Hans Raj has escaped death because of timely medical aid though every attempt was made to liquidate him also by causing three bullets injuries to him.

(8) I have given my thoughtful consideration to all these submissions and have also gone through the statements of the witnesses as also the M.L Cs. There is no doubt that there is no mention of the role of the petitioner in the statement of the complainant but it stands explained as the complainant has stated that he came out of the office from the back door when the incident was going on and, thus, it cannot be said that there is any improvement in the subsequent statements. Hans Raj was examined on 9th March, 1991 after he was declared fit for making statement and he has made a categorical statement about the role of the petitioner. It has also been stated by Raj Kumar that on 3rd March, 1991 he along with his brother Sham Sunder had gone to the house of Suresh Singhal and Pritpal Singhal and that some hot words were exchanged at that lime between Sham Sunder on one side and Suresh Singhal and his father on the other side.

(9) There is no doubt that the petitioner is not named in the FIR. He has, however, been arrested on 14th March, 1991 with Pritpal Singhal and was produced in Court with muffled face when he declined to participate in the test identification parade. Supplementary statements of witnesses have thereafter been recorded who have stated that the petitioner was the third companion of Suresh Singhal and Pritpal Singhal. The question as to how far these witnesses are reliable will have to be gone into during trial.

(10) . Considering all these facts but without expressing any opinion about the allegations, I am clearly of the view that no case is made out for the release of the petitioner on bail. I may make it clear that any observation made in this order will have no bearing on the final decision of the case which shall be decided on the basis of the evidence which may be produced.

(11) As a result, the application stands dismissed.