

Supreme Court of India

Mastan Singh And Ors. vs State Of Punjab on 13 January, 1987

Equivalent citations: 1987 (1) SCALE 211, 1987 Supp SCC 186

Bench: G Oza, M Dutt

JUDGMENT

1. This appeal by Special Leave has been filed by the appellants Mastan Singh, Harbbajan Singh and Ajit Singh. Mastan Singh has been convicted Under Section 307 I.P.C. and is sentenced to four years' rigorous imprisonment whereas the other two have been convicted Under Section 307 read with Section 34 I P.C. and are sentenced to three and a half years' rigorous imprisonment.

2. Mastan Singh has also been convicted Under Section 336 read with Section 34 I.P.C. and is sentenced to three months' rigorous imprisonment whereas Bhajan Singh has been convicted Under Section 336 and is sentenced to six months and Ajit Singh has been convicted Under Section 336 read with Section 34 I.P.C. and is sentenced to three months's rigorous imprisonment.

3. The prosecution's case at the trial was that all these persons reached the house of injured Bachan Singh, P.W.I and it is alleged that Bhajan Singh when raised his gun, Bachan Singh closed his door and thereafter a shot was fired which struck at the door thereafter Mastan Singh and Ajit Singh climbed on the roof of Mastan Singh's kotha and from there they noticed Bachan Singh and his wife Mahinder Kaur, P.W. 3. They came out of the room and went in the courtyard. It is alleged that Ajit Singh suggested to Mastan Singh to take the opportunity and Mastan Singh by a country-made pistol fired three shots which resulted in pellet injuries to Bachan Singh and his wife.

4. Learned counsel appearing for the appellants contended that so for as the story about the shooting at the door is concerned there is a contradiction in the evidence as to whether the door was closed when Bhajan Singh raised his gun or it was already closed. Except this so far as Bhajan Singh is concerned, there is no part attributed to him. AS regards the other two who climbed on the roof it was contended that Ajit Singh is said to have only spoken or said something and he was armed with a Gundasa which was not used and it was contended that the injuries were only injuries by pellets. It was contended that the sentence awarded was four years and now after so many years no useful purpose is served by sending them in jail.

5. Learned counsel appearing for the State on the other hand contended that so far as Bhajan Singh is concerned the prosecution's case is that whether he raised his gun towards Bachan Singh and Bachan Singh closed his doors and Bhajan Singh fired his gun at the door. So far as the other are concerned it is contended that not only Ajit Singh said something and encouraged Mastan Singh in shooting Bachan Singh and his wife but he accompanied him on the roof when Mastan Singh was armed with a pistol and they had gone there with a design. These circumstances clearly establish the common intention. On the question of sentence Learned counsel contended that in the circumstances of the case the sentence awarded is already lenient.

6. As far as Bhajan Singh is concerned, it is not disputed that so far as the incident of shooting from the top of the roof is concerned he was not present there. There is some controversy about the

incident in the manner in which it took place when it is alleged that a shot was fired at the door by Bhajan Singh. In these circumstances so far as the incident of shooting by Mastan Singh is concerned from the top of the roof it could not be said that Bhajan Singh shared any common intention. Under these circumstances conviction of Bhajan Singh Under Section 307 read with Section 34 I.P.C. could not be maintained. As regards Mastan Singh and Ajit Singh are concerned the evidence clearly establishes that Mastan Singh fired three shots with his country-made pistol which resulted in pellet injuries to both Bachan Singh and his wife Mohinder Singh. These injuries are alleged to be by pellets. Under these circumstances conviction of Mastan Singh Under Section 307 I.P.C. could not be assailed. Ajit Singh not only encouraged Mastan Singh to take the opportunity and fire but climbed with Mastan Singh and Mastan Singh was armed with a country-made pistol on the roof of the house of Mastan Singh. Mastan Singh took the opportunity to shoot at Bachan Singh as apparently door was closed and so he climbed on the roof to see where Bachan Singh is. Under these circumstances conviction of Ajit Singh Under Section 307 read with Section 34 I.P.C. could not be said to be unjustified. As regards the sentence in our opinion the sentence awarded cannot be said to be excessive. We, therefore, see no reason to interfere with the conviction and sentence awarded to Mastan Singh and Ajit Singh. The appeal is disposed of accordingly. Consequently conviction of Bhajan Singh Under Section 307 read with Section 34 I.P.C. is set aside his bail bond, therefore, be cancelled. So far as the other two are concerned, as their appeals are dismissed they will surrender to the bail bonds to serve out the sentence. As regards conviction of all under Sections 336, 336/34 I.P.C. as all have served sentences award to them, Conviction Under Section 336, 336 read with Section 34 I.P.C. are maintained.