

Supreme Court of India

Pandit/Ram Parkash Sharma vs Kharaiti Lal on 17 December, 1997

Equivalent citations: AIR 1998 SC 2820, 1998 (2) ALD Cri 45, 1998 CriLJ 1410, 1998 (1) Crimes 119 SC, JT 1998 (1) SC 5, 1998 (1) SCALE 7

Author: Nanavati

Bench: G Nanavati, K Venkataswami

ORDER Nanavati, J.

1. This appeal is filed by the father of Gobind Ram, who was killed by accused Kharaiti Lal, on 24.11.1985 at about 9.30 p.m. The appellant Kharaiti Lal was acquitted by the High Court by allowing his appeal against the order of conviction passed by the court of Additional Sessions Judge, Ferozepur in sessions case 20/86 (sessions trial No. 46/86)

2. Along with Kharaiti Lal, 3 other accused were also tried for the murder of Gobind Ram and for causing injuries to Subhash Chander, P.W. 7. In order to prove its case the prosecuting had examined P.W. 6 Vijay Kumar and P.W. 7 Subhash Chander. The trial court believed both these witnesses with respect to participation in the incident by Kharaiti Lal. It did not believe their evidence with respect to the remaining 3 accused. Thus they were acquitted and Kharaiti Lal was convicted under Section 302 IPC.

3. The High Court on reappreciation of evidence did not think it safe to rely upon the evidence of the two eye witnesses. The High Court took this view as there was no motive whatsoever for Kharaiti Lal to leave Subhash Chander and attack Gobind Ram on that day. Another reason given by the High Court was that as both these witnesses were not believed as regards the injuries stated to have been caused by accused Subhash Chander and accused Ramesh Kumar and as they had not explained remaining 8 injuries on the deceased it was not safe to rely upon their evidence even with respect to the injuries alleged to have been caused by Kharaiti Lal.

4. Having gone through the evidence of Subhash Chander and Gobind Ram we find that, even though all the 4 accused were known to them, accused Subhash Chander and accused Ramesh Kumar were not named by both the witnesses in their initially version given to the police and the doctor respectively. We also find that the remaining 8 injuries found on the deceased were not likely to have been caused as a result of fall from a bicycle. Thus those injuries remain unexplained. As pointed out by the High Court if the accused Kalia held the deceased in the manner described by the witnesses then it would not have been possible for Kharaiti Lal to give the fatal blow alleged to have been given by him. If in view of such improbabilities and improvements made by the witnesses the High Court thought it fit not to believe the two eye witnesses, it cannot be said that the view taken by it is unreasonable justifying interference by this Court.

5. This appeal is, therefore, dismissed.