

Supreme Court of India

Ram Lal And Anr. vs State Of Punjab on 14 January, 1988

Equivalent citations: JT 1988 (1) SC 258, 1989 Supp (1) SCC 21

Author: G Oza

Bench: G Oza, B Ray, K J Shetty

ORDER G.L. Oza, J.

1. This is an appeal under Section 14 of the Terrorists Affected Areas (Special Courts) Act against the conviction of the two appellants Ram Lal under Section 302 and sentence of life imprisonment and Bhag Singh under Section 324 and sentence of two years awarded by the Additional Judge, Special Court, Ludhiana in Sessions Trial No. 22 of 1985 by his Judgment dated May 2, 1985.

2. It appears that the two appellants along with Darshan Singh and Arjun Singh went to the shop of Ram Dass who is running a shop of shoe maker and as Arjun Singh was the landlord of the premises, it appears that they went there to pressurise the tenant to vacate the premises it is not disputed that none of the appellants was carrying any arm or instrument of offence. They were all unarmed. At the shop some verbal exchange started. In that situation Ram Lal took up Rambhi, which is an instrument used in shoe making and which was lying on the shop and he inflicted one blow, which unfortunately fell on the vital part of the body resulting in fatal injury. It is alleged that Bhag Singh also took Rambhi which again was available readily as it was a cobbler shop and he also gave a blow. There is controversy as to whether this blow resulted in two injuries one on the eyebrow and the other on the palm. The prosecution has examined three eye witnesses P.W. 2 Ram Das, P.W. 3 Ram Swarup and P.W. 4 Darshan Singh. The First Information Report was lodged immediately. The defence version was that there was grappling between Buta Singh and Ram Lal and Rambhi was in the hand of the deceased himself and because he fell down in grappling this instrument Rambhi pierced in his body resulting a fatal injury. Looking to the evidence of the prosecution witnesses which has been believed by the trial court and which was read before us also by the learned Counsel, we see no reason to disagree with the trial court when it rejected the defence version. But from the evidence of the prosecution, it appears that there was some exchange of words which resulted in aggravating the situation. It also appears that the appellants were not carrying any instrument of offence. At the spur of the moment, they picked up the instrument of offence then and there. The trial court also after considering the evidence of the prosecution came to the conclusion that there was no previous meeting of the mind nor there was any concerted effort on the part of the appellants. This incident took place at the spur of the moment and admittedly in heat of passion. It is also clear that the appellants wanted the tenant to vacate the shop. The shop belongs to Ram Das and he was in occupation of the shop but he was not attacked.

3. In the circumstances as stated above it is clear that as a result of hot exchange between Buta Singh and Ram Lal tempers arose and Ram Lal picked up Rambhi which was lying there and in heat of passion inflicted one blow. Under these circumstances in our opinion, the conviction of the appellant No. 1 under Section 302 I.P.C. could not be sustained. He could be convicted only under Section 304 Part I I.P.C. So far as appellant No. 2 Bhag Singh is concerned, the Court below has convicted him under Section 324 and Section 34 was not invoked. The appeal is therefore partly allowed and conviction of appellant No. 1 is converted to Section 304 Part I. The conviction of

appellant No. 2 is maintained. As regards sentence, the appellant No. 1 is awarded a sentence of 8 years rigorous imprisonment under Section 304 Part I I.P.C. So far as appellant No. 2 is concerned, who is convicted under Section 324 I.P.C. it appears from the Judgment and it is not disputed that at the time of incident he was a boy of 20 years. Under these circumstances he will be entitled to the benefit of Section 6 of the Probation of Offenders Act. Looking to these circumstances, it is directed that instead of sending him back to prison, he shall be released on furnishing a bond for good behaviour for a period of two years to the satisfaction of Chief Judicial Magistrate, Ludhiana. He shall not be taken back to custody, as he has already been released on bail.

4. The appeal is disposed of accordingly.