

Supreme Court of India

Ujagar Singh vs State If Punjab on 6 April, 1994

Equivalent citations: 1994 SCC, Supl. (2) 214 JT 1994 (3) 167

Author: K J Reddy

Bench: Reddy, K. Jayachandra (J)

PETITIONER:

UJAGAR SINGH

Vs.

RESPONDENT:

STATE IF PUNJAB

DATE OF JUDGMENT 06/04/1994

BENCH:

REDDY, K. JAYACHANDRA (J)

BENCH:

REDDY, K. JAYACHANDRA (J)

ANAND, A.S. (J)

CITATION:

1994 SCC Supl. (2) 214 JT 1994 (3) 167

1994 SCALE (2) 488

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by JAYACHANDRA REDDY, J.- The sole appellant has been found guilty under Section 302 IPC and sentenced to undergo imprisonment for life. He along with one Bishambar Singh was tried for the offence of committing the murder of Kashmiri Lal. The trial court acquitted both of them. The State preferred an appeal and the High Court, while confirming the acquittal of Bishambar Singh, convicted the appellant as stated above. Hence the present appeal has been filed + From the Judgment and Order dated 18-7-1980 of the Punjab and Haryana High Court in Crl. A. No. 914 of 1978 under Section 2 (a) of the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970.

2.The prosecution case is as follows. The deceased was a resident of Fazilka and was the President of the Municipal Committee, Fazilka as well as Chairman of the Market Committee. He had agricultural land in the neighboring Village Chak Nur Samand. On August 5, 1977 at about 7.30 a.m. he went to his land on a motor cycle along with PW 2, Lal Chand. He parked the motor cycle at a

distance of about three acres from his tubewell. The deceased and PW 2 after having a round of the fields reached the tubewell and the deceased talked with PW 5 Babu Ram. In the meantime the appellant armed with a rifle and Bishambar Singh, the acquitted accused armed with a stick appeared on the scene. Bishambar Singh raised a lalkara to teach a lesson to Kashmiri Lal, deceased as he had not given them due share of the produce of the land. Upon this, Ujagar Singh, appellant fired a shot from his rifle which hit the deceased on the arm. He fired another shot which hit the deceased on the upper arm. Three or four more shots were fired by the appellant at the deceased as a result of which he fell down. On the alarm being raised both the accused ran away. PW 2 Lal Chand went to the Police Station Sadar Fazilka and lodged a report at 10 a.m. SHO, PW 13 forwarded the FIR and the Magistrate received it at 11 a.m. PW 13 along with constables reached the place of occurrence, held the inquest and also seized five empty cartridges. Next day the accused were arrested and the appellant produced his rifle along with the identity card which were taken into possession. The body of the deceased was sent for postmortem. PW 1 the Doctor, who conducted the postmortem, noticed as many as nine lacerated wounds and some abrasions. He opined that the injuries were caused by a firearm and were ante-mortem in nature and were sufficient to cause death in the ordinary course of nature. The prosecution mainly relied on the evidence of PWs 2 and 5. The accused denied the offence. The learned Sessions Judge altogether doubted the presence of these two witnesses at the place of occurrence and acquitted the accused. The reasons given by the trial court for doubting the presence of PW 2 are as under:

"(i) that there is no entry in the Khasra Girdawari that he was cultivating the land of Kashmiri Lal deceased;

(ii) that after the death of Kashmiri Lal mutation regarding his land is not produced;

(iii) that in the first information report he has not stated that he was cultivating the land of the deceased; and

(iv) that the motor cycle was not produced."

The learned Sessions Judge to ascertain the presence of PW 2 went into these questions namely whether PW 2 was cultivating the land of the deceased etc. because PW 2 stated that he was a tenant of Jagtar Devi wife of the deceased and that he also cultivated the land of Wakf Board and also stated that there is an entry in the Khasra. As a matter of fact his statement is corroborated by PW 4 but surprisingly the learned Sessions Judge went further and observed that entry in the Khasra was not there. We are at a loss to understand as to how on the absence of the entry in the Khasra, his presence as well as his evidence can be doubted. The other reasons given by the learned Sessions Judge do not stand scrutiny at all. It must be remembered that PW 2 gave the report at the earliest moment in which he has given all the details of the participation of the appellant in the crime. He has also mentioned as to how many shots he fired and where they hit and unless he was an eyewitness he could not have given all these details in the earliest report which was so promptly given.

3. Likewise, the learned Sessions Judge has also doubted the presence of PW 5. The grounds given by him are that PW 5 stated that he was told by one Bhagwan Dass that the deceased had gone to the fields and coming to know of the same, he went to the fields to get electric pump from the deceased since on previous occasions also he used to get the electric pump from the deceased. The learned Sessions Judge observing that this story is falsely introduced, rejected his evidence. Yet another reason given by the trial court for rejecting the evidence of PW 5 is that PW 2 has not confirmed the story. The fact remains that PWs 2 and 5 came separately to the deceased and even if PW 2 has not spoken the purpose for which PW 5 came, on that ground, we are at a loss to understand, as to how PW 5's evidence can be discarded.

4. Since this is a regular appeal, we have also perused the evidence of PWs 2 and 5 independently. PW 2 deposed that he has taken some land of the deceased on lease for cultivation and that the accused had also cultivated some land of Kashmiri Lal, deceased and that they had harvested the crop but there was a dispute with Kashmiri Lal about the share of the produce. Then PW 2 proceeded to give all the details of the occurrence namely that after the deceased came to the fields and reached the tubewell, the accused also reached the place and how the appellant shot at the deceased. He has given the details as to how many shots the appellant fired and where they hit. He also stated that the deceased died on the spot and he went to the police station after leaving PW 5 and one Harish Chander near the dead body. He was cross-examined at length. Nothing significant has been elicited. Much of the cross-examination is about his cultivation of the land of the deceased and the witness was asked to give the number of the motor cycle for which he answered that he did not know. We do not find anything significant elicited in the cross-examination which affects his veracity. In the FIR, as already mentioned, all the details are given and the same fully corroborates his evidence. PW 5 also deposed that coming to know that the deceased was at the fields, he also went there for getting the electric pump. Then he has given the details about the attack. He also spoke about the presence of PW 2. He fully supported the evidence of PW 2.

5. Having gone through the evidence of PWs 2 and 5, we are fully satisfied that the reasons given by the trial court for disbelieving the evidence of these two witnesses are wholly unsound and perverse. The appellate court has rightly interfered. Therefore, we see no merits in this appeal and it is accordingly dismissed.