

Supreme Court of India

Daljit Singh vs State Of Punjab on 12 November, 1998

Equivalent citations: 1998 VIIAD SC 305, AIR 1999 SC 324, 1999 (1) ALD Cri 1, 1999 (1) ALT Cri 33, 1999 CriLJ 454, JT 1998 (7) SC 624, 1998 (6) SCALE 151

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Bench: G Nanavati, S R Babu

ORDER Nanavati, J.

1. These appeals arise out of the judgment and order passed by the Designated Court, Gurdaspur, in Sessions Case No. 100 of 1992 (Sessions Trial No. 7 of 1993). The Designated Court convicted both the appellants under Section 302 read with Section 34 IPC and Section 3 of the Terrorist and Disruptive Activities (Prevention) Act, 1987.

2. What is held by the Designated Court is that on 18.6.90 they along with one Satinder Singh in furtherance of their common intention killed Dharam Singh. At the time of the incident, appellant Daljit Singh was driving a motorcycle and Satinder Singh was the pillion rider. On a signal given by appellant Jaspal Singh, both Daljit Singh and Satinder Singh had gone near the deceased and Satinder Singh had fired two shots from his pistol. The findings regarding involvement of the two appellants were recorded by the Designated Court on the basis of the evidence of two eye-witnesses P.W.2-Balbir Singh and P.W. 3 - Sulakhan Singh, which received some corroboration from the evidence of P.W.4 - Gurdip Singh.

3. What is contended by the learned counsel for the appellants is that the Designated Court has not correctly considered the evidence of the two eye-witnesses, Balbir Singh and Sulakhan Singh, He contended that they were really not the eye-witnesses and the appellants should not have been convicted on the basis of their evidence.

4. Balbir Singh is the son of deceased Dharam Singh. According to him on 18.6.90 at about 4.45 p.m. he was standing at the chobara of his house and looking towards the Kahnuwan Road. He could see his father, who was near his workshop, and the appellant Jaspal Singh who was standing near the shop of Dr. Manjit Singh. He has further stated that on Jaspal Singh raising hands, appellant Daljit Singh and Satinder Singh rushed to that place on a motor cycle and Satinder Singh fired two shots at his father. He has also stated that thereafter both these accused sped away towards Shastri Nagar. He, therefore, came down and along with Sulakhan Singh followed them on a scooter. This witness admitted in his cross examination that he had got down from the chobara of his house after about 10 minutes. If really this witness had seen his father being attacked in this manner he would have immediately rushed to the place where his father was lying on the road and tried to find out what actually had happened to his father. The learned counsel for the appellants drew our attention to the cross-examination of this witness where he has stated that he met Gurdip Singh in the hospital and inquired from him as to how it had all happened and Gurdip Singh had narrated to him the whole incidence. Admittedly, Gurdip Singh was not an eye-witness and, therefore, he could not have narrated the whole incident to this witness. If really Balbir Singh had seen the incident he would not have tried to collect information from a person who had not seen the incident. This circumstance and the conduct of this witness in not rushing to the place where his father was lying create a serious

doubt regarding his having seen the incident.

5. P.W.3 - Sulakhan Singh, who claimed to have seen the incident while standing outside his workshop situated on the Kahnuwan Road was contradicted by the police statement wherein he had stated that he was standing near his house. He did try to explain this inconsistency by explaining that his house and workshop are situated in the same building. This witness had also not rushed to the place where his brother had fallen down in injured condition. Instead of inquiring what was his condition he went along with Balbir Singh in search of the accused. This unnatural conduct creates a serious doubt regarding his witnessing the incident. Sulakhan Singh has admitted that even though they went in search of the assailants, they did not enquire from anyone if they had seen them. He also stands contradicted by P.W.4 - Gurdip Singh who had stated that he and Sulakhan Singh had taken injured Dharam Singh in a car to the hospital. We are inclined to accept this part of the evidence of Gurdip Singh as it stands corroborated by the FIR wherein also it is stated that he and Sulakhan Singh had taken the injured to the hospital. If that is so, his version that he had gone with Balbir Singh in search of the assailants stands falsified. Thus a serious doubt arises as regards the presence of Balbir Singh and Sulakhan Singh at the time of the incident.

6. P.W.4 - Gurdip Singh, had not seen the incident because he had come out of the workshop only after hearing the noise of firing. He has merely stated in his evidence that he had seen two Sikh young boys running away on a Hero Honda motor cycle. He did not identify them. If really appellant Jaspal Singh was standing near the place of the incidence, as stated by the other witnesses, then this witness would have definitely noted his presence and would have identified him because the workshop of Jaspal Singh is situated at a short distance of about 200 yards from his workshop.

7. Thus the evidence which was led by the prosecution to prove its case was not such on the basis of which the appellants could have been convicted. We, therefore, allow these appeals, set aside the judgment and order passed by the Designated Court and acquit the appellants of the charges leveled against them.