Supreme Court of India
Amarjit Singh vs State Of Punjab on 27 July, 1995
Equivalent citations: 1995 SCC, Supl. (3) 390 JT 1995 (5) 529
Author: N G.T.
Bench: Nanavati G.T. (J)

PETITIONER:
AMARJIT SINGH

Vs.

RESPONDENT:
STATE OF PUNJAB

DATE OF JUDGMENT27/07/1995

BENCH:
NANAVATI G.T. (J)
BENCH:
NANAVATI G.T. (J)
MUKHERJEE M.K. (J)

CITATION:
1995 SCC Supl. (3) 390 JT 1995 (5) 529
1995 SCALE (4)555

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T M.K. MUKHERJEE. J.

This appeal under Section 14 of the Terrorist Affected Areas (Special Courts) Act, 1984 is directed against the Judgment and order dated March 26, 1985 rendered by the Additional Judge, Special Court, Hoshiarpur convicting the appellant under Section 302 of the Indian Fenal Code for committing the murder of his grand-father Mehar Singh on March 6, 1984 and sentencing him to imprisonment for life.

The prosecution case is that the deceased Mehar Singh owned 22.1/2 willss of land in village Swal' and 10.1/2 killas of land in village Alfuke. About four years before his death Mehar Singh had divided his land in village Swal in three equal shares and given one share to his son Mangat Singh, another to his son Kirpal Singh, father of the appellant, and retained the balance. While Mangat Singh, with whom Mehar Singh used to live cultivated his share of that land and also that of Mehar

Singh, the appellant cultivated the land given to his father. Being apprehensive that Mehar Singh might give his share of land in village Swal as also his land in village Alfuke to Mangat Singh the appellant was putting pressure upon him for a moiety share in the land retained by him in village Swal and also the land in village Alfuke. Since Mehar Singh was not yielding to such demand the latter was very much annoyed with him.

On March 6, 1984, at or about 8 A.M. when Mangat Singh, his brother-in-law Hazara Singh and Mehar Singh were returning from the tubewell in their village the appellant came from the opposite direction on a bicycle armed with a Kirpan. He stopped Mehar Singh, barked his bicycle by the side of the pathway and told him that as he had decided to transfer his share of land to Mangat Singh and did not accede to his demand he would not leave him alive. With these words he started infliciting repeated Kirpan blows upon Mehar Singh as a result of which he fall down dead. Before however Mangat Singh and Hazare Singh, who were little behind Mehar Singh, could reach there the appellant fled away with the Kirpan through the fields leaving behind his bicycle, shoes and turban. Mangat Singh immediately left for the police station asking Hazara Singh to guard the dead body. On the way he met ABI Avtar Singh near village Mewa Singh Wala and narrated the incident to him. ABI Avtar Singh recorded the statement of Mangat Singh (EX.P.F) and sent it to the police station with his endorsement thereon (EX.P.F(17) to register a case. Accompanied by Mangat Singh, Avtar Singh then went to the spot, held inquest upon the dead body of Mehar Singh and forwarded it for post-mortem examination. From the spot he seized some blood stained earth, cair of shoes. Bicycle and guroan and then prepared a rough sketch plan.

In course of the investigation he arrested the appellant on March 11, 1984 and pursuant to his statement recovered a blood stained Kirpan (EX.P.1). Avtar Singh sent all the blood stained seized articies for chemical examination and on receipt of report of such examination submitted charge-sheet against the appellant.

The appellant pleaded not guilty to the charges levellen against him and contended that Mehar Singh used to live with him as his father was insane and his brother was panalytic. He further contended that it was he - and not Mangat Singh - who was cultivating the share of Mehar Singh and that it was Mangat Singh who pressing the deceased to give half share out of the land retained by him out the latter did not agree. As regards the incident the appellant s version was that as usual Mehar Singh had gone to the tubewell in the morning but he was in his house. While in the house, he learnt through the chowkidar that Mehar Singh had been killed. On getting that information he went to the spot and found a number of persons present. According to him it was Mangat Singh who registered a false case against him. His further defence was that Hazara Singh was also enimical towards him as his wife (daughter of Mehar Singh) did not get any share out of the property of Mehar Singh and, therefore, he was siding with Mangat Singh.

That Mehar Singh met with a homicidal death on the fateful day stands conclusively proved by the overwhelming evidence on record. In fact, this part of the prosecution case was not challenged by the appellant. Apart from the evidence of Mangat Singh (P.W.4) and Hazara Singh (P.W.5) there is the evidence of Investigating Officer ASI Avtar Singh (P.W.7), who deposed that he found the dead body on the wheat field, and that of Dr. Jasbin Singh (P.W.3) who held postmortem examination on

the dead body and found as many as 24 injuries on his person. According to P.W.3 all the injuries were ante mortem and were sufficient to cause death in ordinary course.

The next and the most crucial question that falls for consideration is whether the prosecution has succeeded in conclusively proving that the appellant was responsible for the homicidal death of Mehar Singh. To prove this part of its case the prosecution relied, needless to say, principally upon the evidence of Mangat Singh (P.W.4) and Hazara Singh (P.W.5). Both these witnesses testified that while they were coming back from the tubewell after their morning ablutions along with Mehar Singh, who was a little ahead of them, they saw the appellant coming from the opposite direction on a bicycle with a Kirpan in his hand. They next testified that the appellant accosted Mehar Singh and said that as he had not yielded to his demand he will not allow him to live. With these words, he inflicted a number of blows with his Kirpan upon Mehar Singh resulting in his instantaneous death. P.W.4 also testified about the genesis of the trouble, detailed earlier.

Having regard to the fact that Mangat Singh (P.W.4) and Hazara Singh (P.W.5) were closely related to the deceased we have considered and assessed their evidence with more than ordinary care and caution. Having done so we do not find any reason for disbelieving them more particularly when nothing could be elicited in cross-examination to discredit them. On the contrary, we find, that the evidence of Mangat Singh (P.W.4) stands fully corroborated by the First information Report which was lodged by him within two hours of the incident and contains the substratum of the entire prosecution case. The next corroboration of the evidence of P.W.4 and P.W.5 is furnished by the evidence of Dr. Jasbir Singh (P.W.3) when he said that all the injuries found by him on the person of the deceased could be caused by a sharp edged weapon like a Kirpan or any other heavy weapon with sharp edges. When the Kirpan (EX.P.1) seized during the investigation was shown to him, the doctor opined that it could cause the injuries found on the person of the deceased.

Another circumstance, on which the prosecution relied in support of its case was that the blood stained Kirpan (EX.P.1) was discovered pursuant to the statement made by the appellant to the effect that he has concealed it. We have carefully considered the evidence adduced by the prosecution in this regard, particularly that of P.W.7. and have found the same convincing and reliable. Coupled with the above evidence is the report of the Serologist which shows that human blood was found on the Kirpan.

The evidence of P.W.4 and P.W.5 that after the appellant fled away his turban, shoes and bicycle were found there gets support from the seizure of these articles from the spot by P.W.7. From the chemical analysis report we further get that human blood was found on the turban but the origin of the blood found on the shoes could not be determined as it was disintegrated. It was however, contended on behalf of the appellant that the story of the prosecution that the appellant left behind his turban, shoes and bicycle was a purely concocted one for it was absurd to believe that the appellant would leave behind those articles to implicate himself. According to the learned counsel for the appellant, if the incident took place in the manner alleged by the prosecution the appellant would have certainly fled away on the bicycle - rather than on foot - to ensure a speedier escape. We are not at all impressed by this contention. Considering the manner in which the appellant gave repeated blows upon the deceased and the resistence the latter but by trying to ward off the blows -

which is evident from the fact that both his hands were chopped off - the droping down of the turban was not unlikely. As regards the shoes and the bicycle, the appellant had left those behind obviously because he made the wheat fields his escape route: and the best and convenient way to make good an escape through such a route would be to run barefooted.

It was also contended on behalf of the appellant that the learned court below should not have discarded the evidence of Smt. Inder Kaur (D.W.1) who fully supported the appellant s version and accepted that of her brother P.W.4 as relationshipwise they stood on the same footing. To appreciate this contention we have carefully considered her evidence as also the reasons which weighed with the trial Court in disbelieving her. The trial Court observed that if the appellant had been cultivating the lands of Mehar Singh all along, as testified by her, the appellant's name must have been appearing as the cultivator in the record of rights and that document would have been the best evidence. The trial Court further observed that according to her evidence the police had gone to the village at 6 or 7 A.M. on the fateful day but it was nobody's case that the incident had occurred by then. The trial Court fastly held that if really D.W.1 felt that the appellant had been falsely implicated, it was expected of her to approach the Investigating Officer, who according to her was present in the village, and testify about the same. All the above considerations, in our view, are germane to discredit the defence witness. While on this point it will be pertinent to mention that even if us proceed on the assumption that the motive ascribed by the prosecution for the incident in not true and that the defence version as given out by D.W.1 in this regard is acceptable still then we will not be justified in discarding the prosecution case altogether, for law is now well settled that where the positive evidence against the accused is clear, cogent and reliable the question of motive and, for that matter, proof thereof pale into insignificance.

For the foregoing discussion we do not find any merit in this appeal and dismiss the same. The appellant who is on pail will now surrender to his ball bond to serve out the sentence.