

Supreme Court of India

Karam Singh Alias Karmu vs The State By The Inspector Of ... on 26 March, 1992

Equivalent citations: AIR 1992 SC 1438, 1992 CriLJ 2333, 1992 (1) Crimes 1245 SC, JT 1992 (2) SC 457, 1992 (1) SCALE 726, 1992 Supp (2) SCC 60, 1992 (2) UJ 89 SC

Author: K Singh

Bench: K Singh, Y Dayal

ORDER Kuldeep Singh, J.

1. Special leave granted.

2. The appellant Karam Singh @ Karmu A- 6 along with A-1 Lakshman Singh @ Bhutta, A- 2 Jaypal Singh @ Bali, A-3 Channan Singh @ Mangal, A-4 Gurdip Singh and A-5 Mewaram, was tried on the allegations that A-1 to A-6 armed with deadly weapons formed themselves into an unlawful assembly and committed murder of one Chandra by trespassing into his house. They were further charged with having committed dacoity by snatching away the gold ornaments from Daise Chandra daughter of the deceased/The Trial Court convicted A-1 and A-2 under Sections 302/34, 395, 427, 449 and 148 IPC. A-3 to A-6 were convicted under Sections 302/149, 336, 427, 449 and 147 IPC. On appeal the High Court acquitted A-3, A-4 and A-5 of all the charges. The High Court, however, maintained the conviction and sentences of A-1, A-2 and the appellant A- 6 on all the counts. Three separate special leave petitions on behalf of A-1, A-2 and A-6 have been argued before us by Mr. R.K. Garg, learned senior advocate appearing for these petitioners. By separate orders we have already dismissed the special leave petitions of A-1 and A-2. This appeal against his conviction and sentence is by A-6 Karam Singh @ Karmu.

3. Mr. R.K. Garg, learned senior advocate, has contended that there is no-evidence to connect the appellant with the crime. He did not enter the house and stood outside in the compound. It is not disputed that no test-identification-parade was done in this case and Karam Singh was convicted only on the basis of court-identification. The High Court upheld the conviction of the appellant on the following reasoning:

P.W.2 Radhakrishnan also deposes that when A1 Lakshman Singh and A2 Jaypal Singh came out of the house of the deceased three persons came running into the compound. He identifies A6 Karam Singh @ Karmu as one of those three persons. P.W. 3 Prabakaran had also seen three persons including A6 Karam Singh coming into the compound. Besides he speaks about A6 Karam Singh breaking the street-light and in our view the materials herein are sufficient to establish the participation of A2 Jaypal Singh and A6 Karam Singh in the occurrence.

4. We have given our thoughtful consideration to the arguments advanced by Mr. Garg and we find force in the same. According to PW-2 Radhakrishnan and PW-3 Prabakaran they saw the appellant while he came running into the compound and breaking the street-light. The occurrence according to the prosecution took place at about 1.30 A.M. We are of the view that in the absence of any test identification parade, in the facts and circumstances of this case, it would not be safe to convict the appellant, specially when no overt-act has been imputed to him. The High Court acquitted A-3 to A-5 disbelieving PW-2 and PW-3. We see no justification for the High Court to have upheld the

conviction of the appellant.

5. We, therefore, allow the appeal, set aside the conviction and sentence and acquit the appellant.