

Supreme Court of India

State Of Punjab vs Mohri Ram on 7 April, 1993

Equivalent citations: 1994 SCC, Supl. (1) 632

Author: K J Reddy

Bench: Reddy, K. Jayachandra (J)

PETITIONER:

STATE OF PUNJAB

Vs.

RESPONDENT:

MOHRI RAM

DATE OF JUDGMENT 07/04/1993

BENCH:

REDDY, K. JAYACHANDRA (J)

BENCH:

REDDY, K. JAYACHANDRA (J)

SINGH N.P. (J)

CITATION:

1994 SCC Supl. (1) 632

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. All these four appeals arise out of the same judgment of the Punjab and Haryana High Court. The first two appeals are filed by the State. The other two appeals are filed by the complainant in the case. On the intervening night of July 18/19, 1982 at about midnight time, a dastardly crime took place in the course of which one Lalchand, his wife and son were done to death. In respect of this occurrence as many as four accused which figure as respondents in these appeals were tried for offences punishable under Sections 303, 302/34, 459 IPC and Section 25 of the Arms Act. The learned Sessions Judge relying on the prosecution evidence convicted all of them under Sections 302/34 IPC and sentenced each of them to undergo imprisonment for life except Mohri Ram (A-1) who was sentenced to death. The confirmation case as well as the appeals filed by the convicted accused were heard and disposed of by a common judgment by the High Court. The High Court found some suspicious features in the prosecution case and accordingly, gave the benefit of the doubt to the accused and allowed their appeals. Aggrieved by the same, these appeals by the State

and the complainant are filed. The learned counsel for the appellant-State of Punjab Mr A.S. Sohal submits that the judgment of the High Court is scrappy and the reasons given by the High Court are highly unsound and on flimsy grounds the evidence of the eyewitnesses has been rejected. We have gone through the judgment of the High Court. The learned counsel is right that the evidence of the eyewitnesses has not been discussed in the proper perspective and some of the grounds for rejecting their evidence do not stand scrutiny.

2. However, to satisfy ourselves, we have gone through the judgments of the courts below and also examined the evidence rendered by the so-called eyewitnesses, PWs 1 and 4. The prosecution case is that one Tharo Bai, sister of PW 4 was married to Mohri Ram, resident of an adjoining village and the deceased Lalchand owned about 6 1/2 acres of land which he was cultivating jointly along with his son Duta Ram and Satnam Bai. A dispute arose regarding the 1/5th share which the deceased was not prepared to part with. Because of this, there was enmity and there were some other disputes also between the two families. It is alleged that on the night in question, PW 4 and his wife Shanti Bai were lying on the cots on the roof of their house, whereas the deceased Lalchand, Saidan Bai and Satnam Bai were sleeping in the courtyard. A burning lantern was hanging on a peg fixed in the wall. At about midnight time, PW 4 heard noise in the courtyard. He and his wife woke up and in the light of the lantern, he saw the four accused, one of them armed with a spear and the other armed with a Gandasa standing near the cot of Lalchand. Then according to the prosecution, Mohri Lal opened the attack and dealt blows. Others also followed and each one of them inflicted injuries on the three deceased persons with their respective weapons. Milkhiram, the nephew of Lalchand also reached and witnessed the occurrence and he was examined as PW 1. After inflicting the injuries, the accused left the place. PW 4 went to the police station covering a distance of 10 miles and got a report recorded at about 2.30 a.m. before the ASI who registered the crime and prepared the necessary reports and despatched them to the Magistrate and other officers. Thereafter he left to the scene of occurrence. He held an inquest over the dead bodies and sent the same for post- mortem. The Doctor found on each of the deceased number of injuries which could have been inflicted with sharp-edged weapons and opined that these injuries resulted in their deaths. The case was registered and after completion of the investigation, the charge-sheet was laid.

3. The accused pleaded not guilty. Before the trial court as well as before the High Court it was contended that PW 1 was a chance-witness and he could not have been present at the scene of occurrence and that PW 4's evidence does not inspire confidence. The other submission was that the presence of the lantern was highly doubtful and it has been introduced in the case and when the witnesses say that with the help of the light shed by the lantern they saw every part played by the four accused, is highly artificial and their evidence becomes suspicious and particularly when they are interested. The trial court, however, held that PW 4 could have been present at the scene of occurrence and he has given the report at the earliest moment giving all the details and there is ample corroboration by the medical evidence. In that view of the matter, the trial court convicted the accused. The High Court, on the other hand, initially doubted the presence of the lantern and also entertained a doubt whether in the meagre light shed by the lantern, the witnesses could have seen the appellants and the part played by them. Unfortunately, as contended by the learned counsel, the High Court has not subjected the evidence of the eyewitnesses to a close scrutiny.

4. In this case, initially we are faced with a question whether the version given in the FIR is correct and could be held to be a true version. No doubt, FIR is not substantive evidence. However, when the author of the report and who is a potential witness, namely, PW 4, consistently speaks with a version given in FIR, then the Court can look into the evidence as well as the earlier version, not for the purpose of mere scrutiny of the evidence, but to examine whether the very version given by this witness could be accepted and if the Court finds the earliest version given is suspicious and if the witness completely falls in line with such a version, then such evidence also becomes suspicious, particularly, in case of this nature arising out of acute enmity.

5. According to the prosecution, it was a dark night. PW 4 was on the terrace and the so-called lantern was hanging on a peg fixed in the wall. The occurrence is said to have taken place in the courtyard and admittedly it was at some distance from the lantern and the place where PW 4 and his wife were sleeping. In such a situation, it becomes highly doubtful how PW 4, assuming he has seen the appellants there, could describe the details so minutely in the FIR as are given in the medical evidence and the injuries found on the deceased persons. We have carefully gone through the FIR which runs into a number of pages. In that PW 4 has given the details of the dispute and the names of the accused in the first page. Then in rest of the three pages, the witness has described the occurrence in such great details which creates suspicion. He describes part played by each of the accused as though they attacked one after the other. What is more important is that he also described each blow given by each of the accused on each part of the body and how they happened to inflict these injuries on each of the three deceased. We find it highly unsafe to accept the version of this witness when he says that in the light shed by the lantern he could notice all these details. It is rather surprising that he has also mentioned the blows dealt on the hands of the deceased, on the lower limbs of the deceased and other parts of the deceased total numbering to 18-20 blows. First of all the presence of the lantern itself is a doubtful factor. Even assuming there was a lantern, it is highly unbelievable that the witness could have given so many details of the occurrence. This report in our opinion appears to have been brought into existence with the help of a person well-versed in these matters after noting the injuries on the deceased person and that such a version is doubtful in the initial stages. When the interested witness falls in line verbatim and repeats the same in a parrot-like manner, naturally that creates some amount of suspicion about his veracity. If PW 4's evidence becomes suspicious then the evidence of PW 1 does not merit acceptance. It is really unfortunate that gruesome murders are going unpunished, but the way the evidence has been put forward, there is an amount of doubt coupled with the circumstances, namely, that it was a dark night and the presence of the lantern creates some doubt. Therefore, we do not think it is a case whether this Court at this distance of time should interfere in appeals against acquittal.

6. In the result, all the appeals are dismissed.