

Supreme Court of India

Ganga Dass vs State Of Haryana on 2 November, 1993

Equivalent citations: 1994 SCC Supl. (1) 534 JT 1993 Supl., 17

Author: K J Reddy

Bench: Reddy, K. Jayachandra (J)

PETITIONER:

GANGA DASS

Vs.

RESPONDENT:

STATE OF HARYANA

DATE OF JUDGMENT 02/11/1993

BENCH:

REDDY, K. JAYACHANDRA (J)

BENCH:

REDDY, K. JAYACHANDRA (J)

RAY, G.N. (J)

CITATION:

1994 SCC Supl. (1) 534 JT 1993 Supl. 17

1993 SCALE (4) 309

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by K. JAYACHANDRA REDDY, J.- Special leave granted.

2. The appellant, who figured as original accused 1, was tried along with three others under Sections 302 and 302/34 IPC. The trial Judge acquitted the other three accused but convicted the appellant under Section 302 IPC simpliciter. The convicted accused namely the appellant filed an appeal challenging his conviction and the State also filed an appeal against the acquittal of the other three accused. Both the appeals were dismissed by the High Court.

3. One Umed Singh, aged about 65 years, is the deceased in the case. On November 18, 1988 he had gone to Mandir to worship where at about 7.45 a.m. he was attacked. His son Dharampal, PW 6 reached the Mandir and he also found his brothers there at the Mandir. By then the deceased was injured and on being enquired the deceased told PW 6 that the appellant hit him with an iron pipe while he was worshipping. The other eyewitnesses PWs 12 and 13 also informed PW 6 about the

occurrence. Thereupon PW 6 went and informed the police. The injured was removed to the hospital and was examined by PW 11, a Doctor at the Primary Health Centre. Thereafter the injured was shifted to P.G.1., Chandigarh. PW 15, a Neuro-Surgeon at P.G.1., Chandigarh carried out an operation on November 20, 1988 on the injured deceased. However, he died on December 5, 1988 as a result of head injury due to septicaemia, renal failure, respiratory failure and finally cardio-respiratory arrest. An altered FIR was issued and the charge-sheet was laid after due investigation.

4.The accused denied the offence and gave some evidence to show that there was some enmity. Both the courts below having believed the evidence of the eyewitnesses convicted the appellant who was responsible for inflicting the blow on the deceased.

5.Learned counsel for the appellant submits that even if the entire prosecution case is to be accepted, an offence punishable under Section 302 IPC is not made out.

6.We find considerable force in this submission. As stated above the occurrence took place on November 18, 1988 and the deceased died 18 days later on December 5, 1988 due to septicaemia and other complications. The Doctor found only one injury on the head and that was due to single blow inflicted with an iron pipe not with any sharp-edged weapon. Having regard to the circumstances of the case, it is difficult to hold that the appellant intended to cause death nor it can be said that he intended to cause that particular injury. In any event the medical evidence shows that the injured deceased was operated but unfortunately some complications set in and ultimately he died because of cardiac failure etc. Under these circumstances, we set aside the conviction of the appellant under Section 302 IPC and the sentence of imprisonment for life awarded thereunder. Instead we convict him under Section 304 Part II IPC and sentence him to undergo six years' RI. The sentence of fine of Rs 2000 along with default clause is confirmed. Accordingly the appeal is partly allowed.