

Supreme Court of India

Punjab Singh vs State Of Haryana on 15 March, 1984

Equivalent citations: AIR 1984 SC 1233, 1984 CriLJ 921, 1984 Supp (1) SCC 233

Author: D Desai

Bench: D Desai, R Misra

ORDER D.A. Desai, J.

1. Special leave granted in both the matters.

2. We first take up the case of Punjab Singh. Miss Lily Thomas, learned Counsel for the appellant contended that Punjab Singh had not participated in the assault on the deceased, P.W. 5, P.W. 6 and P.W. 8 clearly state in their evidence that Punjab Singh gave a gandasa blow to the deceased. This evidence has been accepted by both the Courts. The only contention raised was that medical evidence is inconsistent with the direct testimony. This contention must fail for two reasons:

(i) that if direct evidence is satisfactory and reliable the same cannot be rejected on 'hypothetical medical evidence; and

(ii) as pointed out by Mr. K. G. Bhagat, learned Additional Solicitor General appearing for the State of Haryana, that if medical evidence is properly read, it only shows two alternative possibilities but not any inconsistency. That appears to be correct. That is the only point pressed in favour of the Punjab Singh. Miss Lily Thomas, learned Counsel for the appellant contended that Punjab Singh is a young man and he is a college going student and that some consideration may be shown to him. We are satisfied that no case is made out for compassionate approach when the deceased has been done away. The appeal of Punjab Singh fails and is dismissed.

3. We next take up the case of Karnail Singh. Mr. K. G. Bhagat, learned Additional Solicitor General conceded that the conviction of the appellant under Section 302 read with Section 34, I.P.C. cannot be sustained but on the evidence placed on record, he can be convicted only for an offence under Section 326. We read the evidence and are satisfied that the concession is in tune with the evidence and discloses a fair approach of learned Counsel appearing for the prosecution. Accordingly, the conviction of the appellant Karnail Singh for the offence under Section 302 read with Section 34, I.P.C. and sentence of life imprisonment imposed upon him are quashed and set aside. Karnail Singh is however, convicted for an offence under Section 326, I.P.C. and is sentenced to suffer rigorous imprisonment for three years.

4. The appeal of Karnail Singh is partly allowed to the extent herein indicated.