

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 2040 OF 2013

KULDEEP SINGH

Appellant(s)

VERSUS

STATE OF HARYANA

Respondent(s)

O R D E R

This appeal is directed against the judgment and order dated 16.05.2008 passed by the High Court of Punjab & Haryana in Criminal Appeal No. 49-DB of 1998 whereby the appeal preferred by appellant - Kuldeep Singh was dismissed and conviction and sentence recorded against him under Sections 302 and 307 IPC by the Additional Sessions Judge (I), Kaithal in Sessions Case No. 13 of 1996, on 22.11.1997, was affirmed.

2. Heard learned counsel for the parties, and perused papers on record.

3. Prosecution story, in brief, is that on 18.01.1996 at about noon Dalbir Singh (PW-2) along with his brothers, namely, Randhir Singh (PW-3) and Surinder alias Shalinder (deceased) was coming from the

fields to his house. On the way, bullock cart of Lipti (father of appellant) was parked due to which Dalbir Singh (PW-2) asked Kuldeep Singh (appellant) to remove his bullock cart so that he may go ahead with his 'buggy' (bullock cart). However, Kuldeep Singh declined to shift his bullock cart and an altercation took place between the two. As per the prosecution case, Kuldeep Singh went inside his house and brought a double barrel gun (DBBL) and, on exhortation of his father, fired shots one after another hitting all the three brothers, namely, Dalbir Singh (PW-2), Randhir Singh (PW-3) and Surinder alias Shalinder (deceased). All the three injured were taken to the hospital but Surinder alias Shalinder succumbed to the injuries. On receiving memo from the hospital, Sub Inspector Raj Singh (PW-15) recorded the statement of Dalbir Singh (PW-2) in the hospital and registered the First Information Report No. 5 dated 18.01.1996 at Police Station Kalayat, District Kaithal.

4. After investigation, charge sheet was filed against the appellant and his father Lipti (since acquitted) for their trial in respect of offences punishable under Sections 302 and 307 read with

Section 34 IPC. The trial court, after recording the evidence and hearing the parties, found the accused/appellant - Kuldeep Singh guilty of the charges for the offences punishable under Sections 302 and 307 IPC. The convict (Kuldeep Singh) was sentenced under Section 302 IPC to suffer imprisonment for life and directed to pay fine of Rs. 2,000/- in default of payment of fine he was ordered to undergo further imprisonment of six months. He was further sentenced under Section 307 IPC to undergo ten years R.I. and to pay fine of Rs. 2,000/- in default of payment of fine to undergo further six months R.I. However, Lipti (father of appellant), who was assigned only the role of exhortation by the prosecution, was acquitted by the trial court by giving him the benefit of reasonable doubt. Appellant - Kuldeep Singh (convict) preferred an appeal before the High Court. After hearing the parties, the High Court concurred with the findings of the trial court. Hence, this appeal, by special leave.

5. Learned counsel for the appellant has read before us the First Information Report and the statements of the witnesses, and referred to other papers on record. It is argued before us on behalf of the appellant that

on the same set of evidence, Lipti (father of appellant) has been acquitted, as such, the conviction recorded against the present appellant cannot be sustained. However, on going through the evidence on record, we find that it is amply proved on record from the statements of injured eye witnesses PW-2 Dalbir Singh and PW-3 Randhir Singh that not only the altercation took place between the appellant - Kuldeep Singh and Dalbir Singh (PW-2) but it was only the appellant who is said to have brought the gun of Lipti (his father) from his house, and fired shots one after another on all the three brothers, namely, Dalbir Singh (PW-2), Randhir Singh (PW-3) and Surinder alias Shalinder (deceased). As such, his case cannot be equated with co-accused Lipti.

6. The statement of Dr. R.K. Gupta (PW-1), who conducted the post mortem examination on the dead body of Surinder alias Shalinder, shows that the deceased had died due to shock and haemorrhage as a result of fire arm injury No. 1.

7. Dr. Daizy Sood, Medical Officer (PW-10) had conducted the medico legal examination of Dalbir Singh (PW-2) and Randhir Singh (PW-3) on 18.01.1996 and recorded the following injuries on their person :-

Injuries found on person of Dalbir Singh (PW-2)

"1. A lacerated wound 2cm over middle interphalangeal joint of left index finger, surrounding area was swollen and tender. Fresh bleeding was present.

2. Two lacerated wounds .2cm over left hand over proximal interphalangeal joint of left index finger, surrounding tissue was swollen and tender.

3. A lacerated wound .8cm in diameter over distal phalynx of left middle finger. Fresh bleeding was present.

4. A lacerated would .5cm in diameter over distal phalynx of left middle finger. Fresh bleeding was present, swelling and tenderness was present, blackening was present between the wound injuries No. 3 to 4.

5. Three lacerated wound of 1cm over side of distal phalynx of left finger. Fresh bleeding was present. Tenderness was present.

6. A lacerated would of 4cm over tip of left ring finger.

7. Fresh bleeding from tip of nail of left ring finger, Discolouration of distal half of nail.

8. A lacerated wound 2 cm over middle phalynx of left little finger in dorsum aspect.

9. A lacerated wound 2cm over parimer aspect of left hand proximal to base of middle finger, swelling and tenderness was present."

Injuries found on person of Randhir Singh (PW-3)

"1. Whole of left upper arm was swollen in its anterior medial and posterior aspect. Superficial lacerated wounds seven in number of variable size of 0.2cm 0.8cm in diameter over swollen area. Fresh bleeding was present from all the wounds. Tenderness was present.

2. A swelling of 20 cm x 10 cm over anterior and medial aspect of left fore-arm. Superficial lacerated wounds 6 in number of different size 0.2 cm x 0.5cm in diameter were present over swelling. Fresh bleeding was present from all the wounds. Tenderness was present.

3. A swelling of 19 cm x 5cm over anterior and medial aspect of left fore-arm in its lower 1/3. Superficial lacerated wounds 2 in number of 0.5cm diameter were present. Fresh bleeding and tenderness was present.

4. A lacerated wound 0.5cm over left side of back. Fresh bleeding was present. Surrounding area was swollen and tender.

5. A superficial lacerated wounds below and lateral to injury No. 4, 0.5cm surrounding tissue was swollen and tender.

6. Two superficial lacerated wound one above the another 0.4cm over left side of back. Swelling around and tenderness present.

7. A lacerated wounds .5cm over lateral side of back swelling and tenderness present.

8. Two superficial lacerated wounds 0.2cm on, left lumber region, swelling around and tenderness was present.

9. Superficial lacerated wound .2cm over right side of back.

10. Superficial lacerated wound 2cm x 0.5 cm on the left buttack.

11. A superficial lacerated wound .2cm medial in injury No. 10. Fresh bleeding and tenderness was present.

12. A superficial lacerated wound .5cm over left buttack lateral to midline.

13. An abrasion 2.5cm into 1cm over right knee. Superficial lacerated wound 2 in number .5cm in size.

14. Over right side of back, above the right buttack Swelling around and tenderness present.

15. Superficial lacerated wound .4cm above the right buttack."

8. Considering the statements of the injured eye witnesses corroborated by the medical evidence, and further considering that it was a day light incident and Dalbir Singh (PW-2), Randhir Singh (PW-3) and Surinder alias Shalinder (deceased) were known to appellant - Kuldeep Singh, we have no reason to disagree with the findings recorded by the courts below. We do not find any error of law committed by either of the courts below in appreciating the evidence on record.

9. Therefore, we uphold the conviction of appellant - Kuldeep Singh and sentence awarded by the trial court and affirmed by the High Court.

10. Accordingly, Criminal Appeal is dismissed.

.....J.
[PRAFULLA C. PANT]

NEW DELHI;
JUNE 4, 2015

.....J.
[AMITAVA ROY]

ITEM NO.104

COURT NO.3

SECTION IIB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 2040/2013

KULDEEP SINGH

Appellant(s)

VERSUS

STATE OF HARYANA

Respondent(s)

(with office report)

Date : 04/06/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PRAFULLA C. PANT
HON'BLE MR. JUSTICE AMITAVA ROY
[VACATION BENCH]

For Appellant(s)

Mr. Pahlad Singh Sharma,Adv.

For Respondent(s)

Mr. Arun Bhardwaj, A.A.G.
Mr. Rishi Kapur, Adv.
Dr. Monika Gusain,Adv.

UPON hearing the counsel the Court made the following
O R D E R

Criminal Appeal is dismissed in terms of the signed
order.

(Renu Diwan)
Court Master

(Rajesh Dham)
AR-cum-PS

(signed order is placed on the file)