
(2005) 05 P&H CK 0163

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Appeal No. 51-DB of 1997

Ajit Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: May 31, 2005

Acts Referred:

- Penal Code, 1860 (IPC) - Section 302

Citation: (2005) 14 CriminalCC 843

Hon'ble Judges: Baldev Singh, J; Amar Dutt, J

Bench: Division Bench

Advocate: Gumam Singh with Mr. O.P. Deva, for the Appellant; A.S. Virk, Additional Advocate General, Punjab, for the Respondent

Final Decision: Dismissed

Judgement

Baldev Singh, J.

Ajit Singh son of Sohan Singh son of Santa Singh, Cultivator, resident of Village Gatti Raipur, Tehsil Lohian. District Jalandhar, has filed this appeal against the impugned judgment of conviction and sentence order, both dated November 18, 1996, passed by Sh. K.S. Kauldhar, the then Sessions Judge, Jalandhar, in case F.I.R.NO.15 dated April 1,1995, u/s 302 of the Indian Penal Code (for short "the Code") registered at Police Station Lohian vide which the appellant was convicted u/s 302 of the Code for committing the murder of his father Sohan Singh and was sentenced to undergo imprisonment for life and to pay fine of Rs. 1,000/- and in default of payment of fine to further undergo R.I. for three months.

2. The prayer made in this appeal is to set aside the impugned judgment of conviction and the sentence order by way of acceptance of this appeal and to acquit the appellant of the charge framed against him Section 302 of the Code.

3. The facts of the prosecution case are that on April 1, 1995, at about 7.30 A.M. Sohan Singh (deceased) went to answer the call of nature behind the tube-well

motor of appellant Ajit Singh. P.Ws. Sampuran Singh and Balwinder Singh were present in their field, which was nearby, Sohan Singh (deceased) after easing himself, entered the Kotha of the tube-well motor for starting the same. The appellant came there armed with a "Datar". He gave several blows with "Datar" inflicting injuries on the head, forehead, face, both wrists and other parts of the body of Sohan Singh. P.Ws. Sampuran Singh and Balwinder Singh came running to the place of occurrence. The appellant fled away with the "Datar". Sohan Singh died at the spot on account of the injuries. P.W. Balwinder Singh was left with the dead body. Sampuran Singh, accompanied by Pritam Singh, Sarpanch, went to the Police Station to lodge report.

4. P.W.5 Lajpat Singh, Sub Inspector, the then Station House Officer posted in Police Station Lohian, was present along with other police officials at Village Kang Khurd. P.W. Sampuran Singh narrated him the occurrence. His statement (Exhibit P.E.) was reduced into writing. P.W. Sampuran Singh signed it in token of its correctness. P. W.5 Lajpat Singh made his endorsement Exhibit P.E./1 and copy got this case registered. Exhibit P.E/2 is copy of the F.I.R. which Inder Pal, Assistant Sub Inspector scribed.

5. P.W.5 Lajpat Singh, accompanied by P.Ws Sampuran Singh and Pritam Singh, went to the place of occurrence. He inspected the dead body of Sohan Singh and prepared injury statement (Exhibit P.G.) Inquest report (Exhibit P.C.) was also prepared on the dead body of Sohan Singh. Blood-stained earth was picked up for the spot. It was sealed in the shape of a parcel, which was taken into possession vide recovery memo-Exhibit P.F. Site plan (Exhibit P.H.) was prepared showing the place of occurrence. Dead body of Sohan Singh was dispatched for post-mortem examination.

6. P. W. 1 Dr. Sunil Verma conducted the autopsy on the dead body of Sohan Singh on April 01, 1995, at 5.30 P.M. He found the following injuries:-

1. Incised wound 13 cm x 2cm on right side of face starting 2cm below anterior hair line and going upto tragus of right ear. Underlying bone was cut. On dissection, under injury No.1 underlying bones i.e. frontal, maxilla and T.M. joint were found cut. Underlying membrane and brain-matter were cut. Clotted blood was present in the brain matter.

2. Incised wound 28cm x 4cm extending from right ear crossing right side of face, middle of nose and upto left ear. Underlying bones were visible and were cut and deeply extending upto throat. The tongue was also cut.

3. Incised wound 13cm x 1.5cm on front of face just below injury No.2 and just parallel to injury No.2. Underlying bones were cut.

4. Incised wound 14cm x 2cm starting 2cm from the lower end of left ear and going into right T.M. Joint. Upper lip was freely hanging and upper jaw was also found cut.

5. Incised wound 13cm x 2cm extending from middle left lower jaw and going upto right jaw in its middle. Underlying bones and teeth were found cut.
6. Penetrating wound 3.5cm x 2cm on the right side of neck, 4cm above the middle of left clavicle. Wound was muscle deep. On dissection major vessels were found cut.
7. Right thumb was found amputated at the level of first I.P. joint.
8. Incised wound 6cm 1.5cm on the middle aspect of right upper arm. The wound was muscle deep and clotted blood was present. It was 6cm below shoulder joint.
9. Incised wound 5cm x 1cm on frontal medial aspect of right upper arm, 2.5cm below injury No.8. The wound was muscle deep.
10. Incised wound 5cm x 0.5cm on the top of left shoulder in its middle. The wound was skin deep and clotted blood was present. Incised wound 3cm x 2cm on the outer aspect of left under arm, 8cm below shoulder. The wound was muscle deep and clotted blood was present.
11. Incised wound 7.5cm x 2cm on front medial aspect of left upper arm in its middle. The wound was muscle deep and clotted blood was present.
12. Incised wound 4.5cm x 1cm on the back of left forearm in its middle. The wound was muscle deep.
13. Incised wound 5.5cm on the medial aspect of left wrist joint.

Larynx and trachea found full of blood. Stomach was healthy and contained 150cc of semi-digested material. Small intestines were healthy and contained digested food and gasses. Large intestines were healthy and contained faecal matter and gases. Bladder contained about 100cc of urine. In the opinion of the Doctor, the cause of death in this case was due to haemorrhage, shock and neurogenic shock as a result of injuries Nos.1 and 6 individually and collectively with other injuries which were sufficient to cause death in an ordinary course of nature. All the injuries were ante mortem in nature.

7. Probable time that elapsed between injuries and death has within few minutes and between death and post mortem within 24 hours. Exhibit P. A. is copy of the post mortem report.

8. The appellant was arrested on April 4, 1995. He was interrogated by P.W.5 Lajpat Singh, Sub Inspector, in the presence of Balkar Singh, Assistant Sub Inspector and Constable Prithipal Singh. He disclosed that he had kept concealed a "Datar" at the tube-well motor of his brother Harbhajan Singh. He offered to get it recovered. His statement (Exhibit P.K.) was reduced into writing. He then got recovered the "Datar" (Exhibit P. 1) from the disclosed place. It sketch (Exhibit P.K/I) was prepared. It was sealed into a parcel, Exhibit P.K/3 is the seizure memo. Exhibit P.k/2 is the site plan

showing the place of recovery.

9. The clothes of the deceased were taken into possession after post mortem examination. These clothes along with the Datar and the blood-stained earth, sealed in parcels, were sent to the Forensic Science Laboratory, Punjab, Chandigarh. As per report (Exhibit PR), human blood was found on the parcels A B and C (clothes of the deceased, "Datar" and soil).

10. On completion of the investigation, challan was submitted in the Court.

11. The case was committed to the Court of Session for trial. Charge was framed against the appellant for the offence punishable u/s 302 of the Code for committing the murder of his father Sohan Singh. He did not plead guilty to the charge and claimed trial.

12. The prosecution, at the trial, examined five witnesses, namely, P. W. 1 Dr. Sunil Verma, P.W.2 Sampuran Singh, P.W.3 Balwinder Singh, P.W.4 Daljit Singh, Ahlmad and P.W.5 Lajpat Singh, Sub Inspector. Exhibit P.L., P.M. P.N. and P.Q are affidavits of the formal prosecution witnesses. These witnesses proved several documents which are on the file. The relevant documents are Exhibit P.A. (copy of the post mortem report), Exhibit P.C. (Inquest report), Exhibit P.E. (Statement of Sampuran Singh), Exhibit P.E/1 (endorsement), Exhibit P.E/2 (copy of the F.I.R.), Exhibit P.F.(Seizure memo of bloodstained earth), Exhibit P.G(injury statement), Exhibit P.H(site plan), Exhibit P.J (seizure memo of the clothes of the deceased, Exhibit P.K. (disclosure statement of the appellant), Exhibit P.K/1 (sketch of the "Datar"), Exhibit P.K3 (site plan showing the place of recovery of "Datar"). Exhibit P.R is report of the Chemical Examiner. This is the entire prosecution evidence.

13. The appellant was examined on the conclusion of the prosecution evidence and his statement was recorded u/s 313 of the Code of Criminal Procedure. He stated that he is innocent and has been falsely implicated in this case. His father Sohan Singh lived with his (appellant's) brother Harbhajan Singh at Amritsar. His father had executed Will in his favour and in favour of his two brothers, but P.W. Sampuran Singh was demanding more land from his father, who was not agreeing. On April 1,1995, at about 5/6 A.M. he had informed the police about the murder of his father and he suspected P.W. Sampuran Singh to have killed him. The police took into custody P.W. Sampuran Singh, but later on let him off. He was implicated in this case by the police in connivance with P. W. Sampuran Singh. The appellant examined three witnesses in defence, namely, D.W. 1 Nand Lai Sharma, Inspector Food and Supplies, Amritsar, D. W.2 Avtar Singh and D.W.3 Harbhajan Singh. They proved Exhibit D.B. (copy of ration card), Exhibit D.C. (copy of Will), Exhibit D.D. (copy of plaint), Exhibit D.E/1, D.E./3, D.E/4, D.E/5 (copies of statements), Exhibit D.E/6 (compromise) and Exhibit D.E/7 (copy of order). This is the entire defence evidence.

14. Arguments of the Ld. counsel for the appellant and of the Additional Advocate General, Punjab, appearing for the respondent-State, were heard and the evidence

was scrutinized with their help.

15. The Ld. counsel for the appellant argued that the F.I.R. was not lodged with the police promptly. When P.W.5 Lajpat Singh, Sub Inspector, reached the place of occurrence, several people of the village had gathered there. The F.I.R. was lodged after consultations and deliberations. Coloured version was given to the police. This contention is not tenable. The occurrence took place on April 01, 1995 at 7.30 A.M. P. W. Sampuran Singh, accompanied by Pritam Singh, Sarpanch, went to the Police Station to lodge report with the police. However, on the way in the area of Village Kand Khurd, P.W. Lajpat Singh, Sub Inspector, along with other police officials, met them. He recorded the statement of P.W. Sampuran Singh, which is Exhibit P.E. Sampuran Singh had narrated to him the occurrence. Lajpat Singh, Sub Inspector made endorsement (Exhibit P.E/1) underneath the statement of P.W. Sampuran Singh at 11.25 A.M. This endorsement was sent to the Police Station on the basis of which the F.I.R. was registered. Exhibit P.E/2 is copy of the F.I.R. Endorsement was completed at 11 A.M. and the F.I.R. was scribed at 11.25 A.M. Place of occurrence is about 9 kilometers from Police Station Lohian. Copy of the F.I.R. was received by the Ilaqa Magistrate on April 01, 1995, at 2 P.M. So, in the circumstances, there appears to be no delay in lodging the F.I.R.

16. The law is well-settled that delay in F.I.R., does not entail outright rejection of the prosecution case. It only casts a duty on the Court to scrutinize the prosecution evidence more cautiously.

17. It is argued by the Ld. counsel for the appellant that there is conflict between oral evidence and medical evidence. He referred to injury No.6 in the post mortem report, copy of which is Exhibit P. A. It is proved by P. W. 1 Dr. Sunil Verma. Injury No.6 reads as under:-

6. Penetrating wound 3.5cm x 2cm on the right side of neck, 4cm above the middle of left clavicle. Wound was muscle deep. On dissection major vessels were found cut.

18. Sohan Singh (deceased) had 13 injuries in all. These were incised wounds except injury No.6, which was a penetrating wound. "Datar" (Exhibit P.1), which was recovered at the instance of the appellant, was shown to P.W.I Dr. Sunil Verma and his opinion was obtained. He deposed that all the injuries could be possible with "Datar" (Exhibit P. 1). It was not put to him in cross-examination whether "Datar" (Exhibit P. 1) was capable of causing penetrating wound or not. However, his clear-cut opinion was that all the injuries could be possible with "Datar" (Exhibit P. 1) So, there is no conflict between medical evidence and ocular evidence, which is comprised of the statements of P.W.2 Sampuran Singh and P. W.3 Balwinder Singh.

19. The prosecution case rests on the direct evidence of two witnesses, namely, P.W.2 Sampuran Singh and P.W.3 Balwinder Singh. P.W.2 Sampuran Singh is brother of Sohan Singh (deceased). P.W.3 Balwinder Singh is son of P.W.2 Sampuran Singh,

Their statements are cogent and consistent. Their presence in their fields in the early hours of the morning is quite probable. Sohan Singh (deceased) had gone to the fields to ease himself. He entered the tube-well "Kotha" of the appellant to start the electric motor. The appellant came there armed with a "Datar". Their consistent statements are that the appellant gave several blows with "Datar" which caused injuries on the forehead, head, face, both wrists and other parts of the body of Sohan Singh. Sohan Singh died at the spot on account of the injuries. The appellant then fled away with the "Datar" when P.Ws. Sampuran Singh and Balwinder Singh came running to the place of occurrence.

20. The defence version has rightly been discarded by the trial Court that the police arrested P.W. Sampuran Singh on the suspicion that he had committed the murder of Sohan Singh and later on he was let off. Rather, P.W. Sampuran Singh gave information to the police about the murder of Sohan Singh by the appellant. The appellant had fled away after committing the murder of his father Sohan Singh. He was arrested on April 4, 1995. He lodged no report with the police against P.W. Sampuran Singh. So, the evidence of both these eye-witnesses is without any blemish and receives credence.

21. There was a motive with the appellant to commit the murder of his father Sohan Singh. Sohan Singh had expressed his desire to bequeath one Killa of land in favour of Sukhdev Singh son of P.W. Sampuran Singh. The appellant did not like it. He had filed a suit at Nokodar restraining the deceased from alienating the land. A few days before the occurrence, there was a gathering of the Panchayat also in which it was settled that land be equally divided and the appellant felt aggrieved over this settlement. It is a case where direct evidence is available. So, the existence of motive assumes a secondary character.

22. After having gone through the facts on the file, we find that the approach of the trial Court in deciding the case was proper. There was prompt lodging of the F.I.R. The medical evidence and the ocular evidence are in consonance with each other. There was a motive with the appellant to commit the murder of his father Sohan Singh and the presence of both the eye witnesses, namely, Sampuran Singh and Balwinder Singh, was well established at the time of occurrence. So, there is no infirmity in the impugned judgment. We find no merit in the appeal. The judgment of conviction and the sentence order are upheld and the appeal is dismissed.