
Sukhwinder Singh @ Sukha Singh Vs State of Punjab

Appeal No. 458 of 1997

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: March 4, 2006

Acts Referred:

Penal Code, 1860 (IPC) & Section 302

Hon'ble Judges: Mahesh Grover, J; K.S. Garewal, J

Bench: Division Bench

Advocate: Baldev Singh, with Mr. Sudhir Sharma, for the Appellant; B.S. Virk, Additional Advocate General, for the Respondent

Final Decision: Dismissed

Judgement

K.S. Garewal, J.

Sukhwinder Singh alias Sukha was tried by the learned Sessions Judge, Patiala for the murder of Pankaj Kumar who

was stabbed at 7 PM on December 20, 1995 while he and his father were returning home from their shop at Jakhal road, Patran. The learned

Sessions Judge found Sukhwinder Singh guilty of the murder and sentenced him to undergo rigorous imprisonment for life and to pay fine of Rs.

500/-, in default of payment of fine to further undergo rigorous imprisonment for three months. The judgment of conviction and sentence was

pronounced on May 14, 1997 against which Sukhwinder Singh has come up in appeal.

2. According to the prosecution, on December 19, 1995 Sukhwinder Singh had protested to Baldev Raj (PW-4) about the misconduct of his son

Pankaj Kumar deceased by passing in front of his house along with his friends and staring at Sukhwinder Singh's sister. Baldev Raj (PW-4) and

Dwarka Dass (PW-5) promised Sukhwinder Singh that they would advise the deceased not to do so and not to at all go towards Sukhwinder

Singh's house. During this exchange Sukhwinder Singh had also threatened that if they did not advise Pankaj Kumar in the above manner, the

result would be bad.

3. On December 20, 1995 at 7 PM Baldev Raj (PW-4) and his son Pankaj Kumar deceased were on their way home after closing their shop.

They met Dwarka Dass (PW-5) near the Oriental Bank and they all started talking to each other. In the meantime, Sukhwinder Singh came there

and joined them in conversation. After some time he took the deceased towards a nearby Bank. Baldev Raj and Dwarka Dass suspected that

Sukhwinder Singh may start fighting with Pankaj Kumar. They also followed the two of them. When Sukhwinder Singh and Pankaj Kumar

reached near the Patwarkhana Surinder Kumar also reached there having come from the opposite side. Sukhwinder Singh began to grapple with

Pankaj Kumar in the presence of Baldev Raj (PW-4), Dwarka Dass (PW-5) and the above mentioned Surinder Kumar. Sukhwinder Singh took

out a khanjar (dagger) and stabbed Pankaj Kumar in his abdomen. Pankaj Kumar fell down and Sukhwinder Singh inflicted another stab with his

dagger on Pankaj Kumar's back. When alarm was raised, Sukhwinder Singh escaped with his dagger. The occurrence was witnessed by the

above mentioned witnesses in the light of a mercury lamp installed at the old Patwarkhana.

4. Baldev Raj (PW-4) arranged a vehicle and evacuated Pankaj Kumar to Rajindra Hospital, Patiala, where he was declared dead on arrival.

Intimation was sent to the police regarding Pankaj Kumar's death at Rajindra Hospital, Patiala. The Investigating Officer of Police Station Patran

set out towards Patiala but by then Baldev Raj and Dwarka Dass had returned to Patran. Baldev Raj's statement was recorded and on the basis

of that statement, FIR was registered at Police Station Patran, u/s 302 IPC at 12.10 PM (0010 hours) on December 20, 1995.

5. The Investigating Officer started inquest proceedings on the dead body of Pankaj Kumar at Rajindra Hospital, Patiala. Thereafter postmortem

examination was conducted by Dr. Harish Tuli (PW-2) at 10.30 AM on December 21, 1995 and the following injuries were found :-

1. 2.5 cm x 1 cm incised stab wound on right upper abdomen. It was situated 4 cm away from mid line and 5 cm above the umbilicus. On

dissection, the lower lobe of the liver and intestines were cut. There was 200 cc of blood present in the peritoneum cavity.

2. 2.5 cm x 0.5 cm incised stab wound 1 cm away from mid line on the right side of the back. This injury was situated 16 cm below the inferior

angle of right scapula. On dissection, the structures underneath were cut and 200 cc of blood was present in the peritoneum cavity. The

corresponding cuts were present on the sweater and shirt. All the clothes were blood soaked.

6. In the opinion of the Medical Officer, the cause of death was shock and hemorrhage on account of the injuries. The time that elapsed between

injuries and death was half an hour. Post-mortem had been conducted after 16 hours of the death.

7. Sukhwinder Singh was arrested by SI Darshan Singh (PW-10) on December 30, 1995. On the following morning at 5 AM Sukhwinder Singh

was interrogated and he disclosed that he had concealed the khanjar (dagger) behind his shop, amongst spare parts, in a tin and could get it

recovered. The statement of the accused was recorded and the dagger was recovered. After completion of the investigation, the accused was sent

up for trial. At the trial, charge was framed against him u/s 302 IPC to which he pleaded not guilty and claimed trial.

8. The prosecution examined Dr. Sukhcharan Singh Brar (PW-1), Dr. Harish Tuli (PW- 2), Draftsman Adarsh Gupta (PW-3), Baldev Raj (PW-

4), Dwarka Dass (PW-5) President Municipal Council Patran, ASI Hargopal (PW-6), MHC Sahib Singh (PW-7), C. Gurchetan Singh (PW- 8),

C. Kulwinder Singh (PW-9) and SI Darshan Singh (PW-10).

9. The accused was examined without oath and he denied all the circumstances which appeared against him. He pleaded that the witnesses had

deposed falsely against him, he was innocent and the case was a false one. When called upon to enter defence, the accused did not present any

evidence. Learned Sessions Judge found the accused guilty, convicted and sentenced him accordingly.

10. In appeal the learned counsel for the appellant has argued that there was a conflict between the medical and ocular testimonies which showed

that the Investigating Officer had gone out of way to implicate the accused. The injuries found on the person of the deceased could not be possible

with a dagger. The FIR had been recorded after due deliberations and consultations. Certain details regarding the name and parentage of the

deceased had not been mentioned in the corresponding entry in the daily diary report. If the names of the witnesses had been known, their names

would have certainly been mentioned in the said report. All these circumstances showed that the FIR was recorded afterwards. It was also argued

that no reliance could be placed on the statements of Baldev Raj (PW-4) and Dwarka Dass (PW-5). It was submitted that Dwarka Dass (PW-5)

was the President of the Notified Area Committee and the deceased was the son of the Municipal Commissioner. Dwarka Dass needed the help

of the mother of the deceased to continue as the President of the Notified Area Committee and on this account Dwarka Dass had helped the

family of the deceased by falsely implicating the accused. There was no motive for the appellant to commit the crime. The motive put forward by

the prosecution was not unconvincing. Lastly, there was a considerable delay in the registration of the FIR.

11. We have gone through the testimonies of Baldev Raj (PW-4) and Dwarka Dass (PW-5). Both of them have unanimously testified that they

were the eye witnesses to the murder of Pankaj Kumar by the appellant. They had seen the occurrence in the mercury light located on the old

Patwarkhana. They both described the occurrence accurately which could be proved from the fact that the eye witness account was corroborated

with the medical evidence. There were no contradictions between the ocular version and the medical evidence. Baldev Raj (PW-4) was subjected

to long cross-examination, but nothing worthwhile was elicited therefrom. Similarly, the statement of Dwarka Dass (PW-5) also went unchallenged

in cross-examination.

12. We have no reason whatsoever to disbelieve that the two witnesses or to hold that they had not seen Pankaj Kumar being stabbed twice by

Sukhwinder Singh. The medical evidence fully supports the prosecution case. The weapon used to commit the murder had also been recovered

from the possession of Sukhwinder Singh by SI Darshan Singh (PW-10) after he was arrested and interrogated. Dr. Harish Tuli (PW-2), on re-

examination, stated that he had seen the dagger; the injury on the person of the deceased could be possible with a dagger. Indeed, both the injuries

on the dead body were incised stab wound measuring 2.5 cm x. 1 cm and 2.5 cm x 0.5 in depth. The rough sketch of the dagger showed that the

dagger was 2.5 cm and 1 inch wide with sharp on both sides. Therefore, the two injuries received by the deceased were very much possible with

this dagger.

13. We really find no argument of any substance in favour of the appellant. He was seen by the eye witnesses stabbing the deceased with the

dagger. There is no scope for coming to a view contrary to the one expressed by the learned Sessions Judge. We find no merit in this appeal and

the same is hereby dismissed.