

Niranjan Singh and others Vs State of Punjab

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: April 24, 2008

Acts Referred: Penal Code, 1860 (IPC) â€” Section 307, 34

Citation: (2008) 3 RCR(Criminal) 69

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Advocate: Amrik Singh Kalra, for the Appellant; Amit Chaudhary, Asstt. Advocate General, Punjab, for the Respondent

Final Decision: Dismissed

Judgement

Kanwaljit Singh Ahluwalia, J.

Appellants Niranjan Singh, Sarabjit Singh, and Hardev Singh, all sons of Hazara Singh, had been convicted

and sentenced by the Court of learned Additional Sessions Judge, Patiala.

Sarabjit Singh has been sentenced to five years rigorous imprisonment and to pay a fine of Rs. 2,000/-, in default of payment of fine to further

undergo rigorous imprisonment for three months u/s 307 IPC.

Niranjan Singh and Hardev Singh were also sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs. 2,000/- each, in

default of payment of fine to further undergo three months rigorous imprisonment u/s 307 read with Section 34 IPC.

PW-2 Dr. Bir Singh, Registrar, stated that he has brought bed head ticket of injured Devinder Singh. He stated that on 4.7.1991 operation of the

abdomen of injured was done by a team of doctors consisting of himself and other doctors. It is further stated that abdomen was opened. Track

was found upto the half of sub-cutaneous tissue. But no bullet or pallet was found. Paritoneum was also opened.

The plea raised by defence is untenable and the same cannot be accepted. The turn of water was of Devinder Singh, the accused were armed,

water is necessary easement which was being denied to complainant. The complainant had every right to protest. The complainant had gone there

not armed and had made a grievance. The accused had fired shot from 12 bore gun and caused injuries to the complainant. It will be pertinent to

note here that there is no injury on any of the accused as it was one sided affair. At this stage, Mr. Kalra in the alternate has submitted that in the

FIR it has been stated that when the complainant went there for protest, hot words were exchanged and some abuses were also given.

Mr. Amit Chaudhary, learned Assistant Advocate General, Punjab, appearing for the State has unable to explain as to why other two appellants

except Sarabjit Singh have not caused any injury. Admittedly, only one shot was fired and this is attributed to Sarabjit Singh. Therefore, appellant

Niranjan Singh and Hardev Singh cannot be convicted with the aid of Section 34 IPC. Consultations and deliberations to widen the net cannot be

ruled out. As a matter of abundant caution they are liable to be acquitted. Hence, their appeal is accepted.

Mr. Kalra has stated that in the present case, occurrence had taken place on 3.7.1991, a period of 17 years is going to lapse. The parties are

residing in the neighbouring village and their fields adjoin each other and in the last 17 years, no untoward incident had taken place. He has further

stated that Sarabjit Singh is having three daughters.

Taking into account protracted trial, peace prevailing in the village and the fact that appellant Sarabjit Singh has two daughters of marriageable age,

he should not be sent behind the bars. The contention of Mr. Kalra, to reduce the sentence cannot be accepted. As Sarabjit Singh is a sole bread

winner of his family and his two daughters are to be married, taking into account protracted trial, it will be appropriate reduce his sentence from

five years to two years, however, sentence of fine is enhanced to Rs. 20,000/-.

Appeal of Hardev Singh and Niranjan Singh is accepted, they are acquitted.

With these modifications, appeal of Sarabjit Singh is dismissed.