

Jitendra Singh Vs State of M.P.

Court: Madhya Pradesh High Court (Gwalior Bench)

Date of Decision: Oct. 24, 2013

Hon'ble Judges: S.K. Gangele, J; G.D. Saxena, J

Bench: Division Bench

Advocate: V.K. Saxena, assisted by Ms. Shipra Agrawal, for the Appellant; R.K. Shrivastava, Panel Lawyer, for the Respondent

Final Decision: Dismissed

Judgement

S.K. Gangele, J.

This criminal appeal has been filed by the appellant against the judgment dt. 18-07-2000 passed in Session Trial No.

170/1997. Brief facts of the case are that at around 10:30 in the night on 26-02-1997 deceased Naresh Singh had been watching T.V.

programme at his house. At that time, accused Jitendra Singh came and requested Naresh Singh to compromise a quarrel at the house of Murari

Pandit. When Naresh Singh reached in front of the house of Kaptan Singh, he was stopped by Saudan Singh and the present appellant Jitendra

Singh fired a gun shot at Naresh Singh, which had hit at his stomach. Due to the aforesaid injury, the deceased was died on the spot.

2. A report of the incident (Ex.P/1) was lodged at the Police Station at 12:15 in the night within one and half hours of the incident. It was lodged by

Laxman Singh. In the report, he stated that the present appellant had fired gun shot which had hit left side of the stomach of the deceased and he

fell down and thereafter he was died. It is further mentioned in the report that the present appellant had killed the deceased because he was in

inimical terms between the appellant and the deceased on account election of Sarpanch. His statement u/s 161 Cr.P.C. was recorded on the same

date i.e. 27-09-1997.

3. During trial, the appellant-accused abjured his guilt and pleaded his innocence.

4. After conclusion of trial, learned trial Court after appreciation of evidence, acquitted the accused persons Saudan Singh and Pradeep Singh and

convicted the present appellant for an offence u/s 302 IPC and awarded sentences of life imprisonment.

5. Laxman Singh (P.W.1) in his evidence deposed that on 26-2-1997 at around 10:30 in the night his brother and other persons had been

watching T.V. programme in his house. At that time Saudan Singh, present appellant and other two accused persons came to the house and

present appellant requested the deceased to compromise the quarrel at the house of Murari Pandit and thereafter his brother (deceased) followed

them. This witness also followed him and near the house of Kaptan Singh present appellant had fired gun shot at the deceased, which had hit at his

stomach and thereafter he was died. A report was lodged at the Police Station. The family members took the body of the deceased to the Hospital

at Ambah, where he was declared dead. Same facts have been stated by another witness Jamuna Singh (PW-2). He also deposed that he had

been following the accused persons and the deceased. He had seen that present appellant had fired gun shot, which had hit at the stomach of the

deceased. Raj Singh (PW-3) also deposed the same facts. Rakesh Singh (PW-4) deposed that before him cartridge and gun were seized. The

cartridge was seized at the instance of present appellant.

6. Dr. D.S. Yadav (P.W.5), who conducted the post mortem, found following injuries over the body of the deceased:--

Entry wound: A round shaped wound on right side of abdomen 3 1/2 cm. away from midline at level of 7th rib. Wound is 2 1/2 x 2 1/2 cm. round,

edges inverted, no blackening, no charring, slight scalding of edges seen. Blood clot seen surrounding the wound and on wound. Corresponding of

hole on baniyan same shape and size. Baniyan is stained with blood. Wound directed anterior posteriorly.

(b) Exit wound: Lacerated 3 x 2 cm. vertical right side abdomen back, away from 3 cm. from midline at level of 10th vertebra. Corresponding hole

seen on baniyan.

7. Mahesh Sharma (PW-7) deposed that he recorded the FIR and also prepared (Ex.P/1) and also prepared the spot map (Ex.P/2). He also

prepared the Japti Panchnama (Ex.P/3) and arrested all the three accused persons. At the instigation of present appellant, cartridge and gun were

recovered. Shaligram Singh Sankhediya (P.W.7), Investigation Officer has also narrated the same facts.

8. The evidence of the aforesaid witnesses is fully trustworthy. Laxman Singh (P.W.1), Jamuna Singh (P.W.2) and Raj Singh (P.W.3) are the eye

witnesses. Their evidence is trustworthy and there are no discrepancies. The report was lodged immediately and in the report, name of the present

appellant and the fact that he had fired the gun shot, which had hit at the stomach of the deceased, has also been mentioned. It was corroborated

by the doctor, who conducted the post mortem of the deceased. From the perusal of the evidence, in our opinion, the trial Court has rightly held

the present appellant guilty for the offence punishable u/s 302 of IPC and awarded sentence of life imprisonment. The judgment passed by the trial

Court is in accordance with law. Hence, in our opinion there is no merit in this appeal. It is hereby dismissed.