

Jagtar Singh Vs State of Punjab

Court: Supreme Court of India

Date of Decision: Feb. 11, 1992

Acts Referred: Penal Code, 1860 (IPC) " Section 302, 304, 34

Citation: AIR 1993 SC 970 : AIR 1992 SC 970 : (1993) CriLJ 306

Hon'ble Judges: R. C. Patnaik, J; K. Jayachandra Reddy, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. The appellant, Jagtar Singh was tried along with two others for an offence punishable u/s 302, I.P.C. read with Section 34, I.P.C. The

accusation against him was that he caused the death of Balkar Singh and Nirmal Singh by firing at them with a gun. The prosecution examined

some eye-witnesses. Doctor"s evidence also proved that the two deceased died of gun shot injuries. The accused, Jagtar Singh also had injuries

which were caused by a fire arm. He pleaded in his statement u/s 342, Cr.P.C. before the trial Court that two deceased and other persons armed

with guns shot at him and he in his self defence had shot at them and that resulted in causing injuries to the deceased persons, who died. The trial

court acquitted the other two accused, but convicted the appellant u/s 304, Part I, I.P.C. and sentenced him under each count to ten years

imprisonment, but directed the sentences to run consecutively. He was further convicted u/s 27 of the Arms Act to two years rigorous

imprisonment and to pay a fine of Rs. 500/-.

2. The State preferred an appeal and the High Court held that the offence committed by the appellant was one punishable u/s 302, I.P.C. and

under each count, namely, causing the death of two persons, sentenced him to imprisonment for life. This appeal is preferred against the said

Judgment of the High Court.

3. The learned Counsel for the appellant submits that the High Court has not properly appreciated the right of the self defence and that the injuries

found on the appellant would go to show that he was shot at and, therefore, his plea that in exercise of right of self-defence he shot at the two

deceased persons should have been accepted and he should have been acquitted completely.

4. From the above stated facts it can be seen that the case lies in a narrow compass. While according to the prosecution the accused intentionally

caused the death of two persons, the defence case is that in exercise of self-defence he caused the death of the deceased persons.

5. Dr. Pritam Singh, who examined the appellant on the same day found as many as 8 injuries and all of them were caused by a fire arm and they

were fresh. Some of the injuries were on the chest. The prosecution came forward with an explanation that another person, by name, Kartar Singh,

P.W. 11, who was in the company of the two deceased persons shot at the appellant and caused those injuries and, therefore, the deceased were

not responsible for those injuries. On the other hand, the appellant has taken a specific plea of right of self-defence. He stated before the trial Court

that on the day of occurrence the two deceased armed with guns along with another person broke into his house and the deceased Balkar Singh

opened fire at him as a result of which he (the appellant) sustained fire arm injuries, and in order to defend himself he fired a shot in the air in spite

of that the assailants did not retreat. Thereupon in order to defend his own person he fired at the assailants, who at that time were at a short

distance and on his firing the two deceased persons received injuries and dropped on the ground. The appellant further stated that he went to the

police station to give a report, but he was taken to the hospital where he was examined by the doctor. The doctor who had been examined as a

witness supports his defence. The accused has taken a specific plea of right of self-defence and it is not necessary that he should prove it beyond

all reasonable doubt. But if the circumstances warrant that he had a reasonable apprehension that death or grievous hurt was likely to be caused to

him by the deceased or their companions, then if he had acted in the right of self-defence, he would be doing so lawfully. The plea of the appellant

in the circumstances of the case cannot altogether be rejected. It is plausible. The occurrence had taken place in front of the house of the appellant.

He had categorically stated that two deceased persons along with another person came and opened fire at him. The doctor had found quite a

number of gun shot injuries on the person of the appellant. These circumstances probablise his version. Even if the explanation given by the

prosecution has to be accepted, even then the fact remains that the accused received gun shot injuries at the hands of one of the companions of the

two deceased persons. In that event also he could exercise his right of self-defence to the extent of protecting his own person. However, in view of

the specific plea of right of self-defence and the attendant circumstances, the plea set up by him appears to be probable. Therefore, he is entitled to

the benefit of doubt. However, we are of the view that there was no necessity for the accused to cause the death of two persons. In that view of

the matter, it has to be held that he exceeded his right of self-defence in which case the offence, as rightly held by the Sessions Court, would be

one punishable u/s 304, Part I, I.P.C. . Accordingly, we set aside the conviction of the appellant u/s 302, I.P.C. and instead convict him u/s 304,

Part I, I.P.C. and sentence him to undergo 10 years" rigorous imprisonment under each count and the sentences are to run concurrently. Further

the conviction and the sentence awarded under Arms Act and the fine along with the default clause are confirmed. In the result, we set aside the

Judgment, of the High Court and confirm the Judgment of the trial Court with this modification, namely, that the sentences shall run concurrently.

Like-wise, the sentence awarded u/s 27 of the Arms Act shall also run concurrently. The appeal is allowed to the extent indicated above.