(1998) 01 SC CK 0020

Supreme Court of India

Case No: Criminal A. No''s. 662-63 of 1989

Lajo		APPELLANT
	Vs	
Sukhdev Singh and Others		RESPONDENT

Date of Decision: Jan. 6, 1998

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 107
- Penal Code, 1860 (IPC) - Section 323, 325

Citation: (1998) ACR 621 : (1998) 1 AD 318 : AIR 1998 SC 702 : (1998) AIRSCW 388 : (1998) 1 ALD(Cri) 361 : (1998) 1 ALT(Cri) 229 : (1998) CriLJ 783 : (1998) 1 Crimes 114 : (1998) 1 JT 64 : (1998) 1 SCALE 76 : (1998) 1 Supreme 197

Hon'ble Judges: S.S.M. Quadri, J; G. T. Nanavati, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Judgement Pronounced by Nanavati, J.
The widow of Lal Chand, who was killed in the incident which took place on 28.6.1985 and in respect of which six accused including respondent Nos. 1 to 5 were tried in the Court of the Additional Session Judge, Kurukshetra in sessions case No. 5/1 Add of 1986/Session Trial No. 25 of 1986, has filed these appeals, as respondent Nos. 1 to 5 have been acquitted by the High Court.

2. Lal Chand deceased and his brother Ram Sarup claimed to be in possession of Khasra No. 24/21. The prosecution case was that on 28.6.1985 at about 5.00 p.m. while Lal Chand and his brother Ram Sarup and his wife P.W. 6 Ishro were in the field, Sukhdev Singh, respondent No.1 along with other accused came there and started ploughing the land. When Lal Chand tried to persuade them not to plough the land, Sukhdev Singh fired a shot from his double barrel gun and caused injuries

to Lal Chand. Thereafter other accused assaulted Ram Sarup, Ishro and others who came to their rescue and caused injuries to them also. The trial court relying upon the evidence of P.W. 4 Ram Sarup, P.W. 6, Ishro, and P.W. 7 Nirmal Singh convicted Sukhdev Singh for the offence of murder and respondent Nos. 2 to 5 for the offence punishable u/s 323 IPC. Respondent No.5 Sukhwinder Kaur was also convicted u/s 325 IPC.

3. All the convicted accused challenged their conviction before the Punjab & Haryana High Court. The High Court on reappreciation of the evidence came to the conclusion that the prosecution has failed to establish that Lal Chand and his son were put into possession of the field and that they were, in fact, in possession of the same on the date of the incident. The High Court also found that the eye witnesses had not given a correct account of the version as they had failed to explain the injuries which were found on the accused. The accused Harvinder Singh had as many as 5 injuries on his person and accused Ajit Singh had a fracture of his arm. The High Court also found that the defence version that Sukhdev Singh was in possession and that on the fateful day when he was ploughing the land, Lal Chand, Ram Sarup, Ishro and Rulia Ram had gone to their field with ghandasis and attacked Harvinder Singh and thereupon accused Sukhdev Singh had fired a shot from his double barrel gun in exercise of right of private defence was more acceptable.

4. Having gone through the evidence and judgments of both the courts, we find that the view taken by the High Court appears to be quite reasonable except the oral version of the four prosecution witnesses namely Ram Sarup, Ishro Gurmukh Singh and Nirmal Singh there was no other evidence to show that Lal Chand and his son were in possession of the field. The Entries produced from the revenue records clearly show that the field was in possession of accused Harvinder Singh. The evidence also discloses that accused Harvinder Singh and Ajit were examined by Dr. T.L. Gilhotra, D.W. 1, on 2.7.85 and had found injuries on their persons. He has also stated that those injuries were of 3 to 4 days duration. Those injuries do not appear to be self inflicted. Therefore the High Court was right in holding that the prosecution witnesses had failed to explain the injuries caused to the accused. The High Court has also pointed out that P.W. 7 Nirmal Singh was on inimical terms with the accused as proceedings u/s 107 Cr.P.C. were initiated against him by the accused. The relations of Ram Sarup, (P.W.4) and Ishro, (P.W.6) were also inimical with the accused. If in these circumstances the High Court did not think it fit to place reliance on the prosecution witnesses it cannot be said that the view taken by the High Court is unreasonable.

5. We therefore dismiss these appeals. The bail bonds are ordered to be cancelled.