

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Appeal No. D-478-DB of 2015
Date of Decision: 19.10.2015

Yadwinder Singh

...Appellant

Versus

State of Punjab & Others

...Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta
Hon'ble Mrs. Justice Raj Rahul Garg

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the Digest?

Argued By: Shri Jasjit Singh Bedi, Senior Advocate with
Shri Sunil Sihag, Advocate for the appellant.

Ms. Manjari Nehru Kaul, Additional Advocate General, Punjab.

Hemant Gupta, J. (oral)

The present appeal, filed by the victim Yadwinder Singh, is directed against the order passed by the learned trial Court on 17.12.2014, whereby Jaswinder Kaur wife of Gurpal Singh, Shaminder Kaur wife of Gursewak Singh, Randhir Singh alias Kaka son of Major Singh and Satwant Singh son of Tarlok Singh were acquitted of the charges for the offences under Sections 302/307/450/452/120-B/109/148/149 of IPC and under Sections 27/30 of Arms Act levelled against them while granting benefit of doubt.

The prosecution case was set in motion on the statement of injured

Yadwinder Singh-the present appellant, made to SI Krishan Kumar Panthey, SHO, PS- Dirba on 24.12.2012 at about 10.30 PM. In his statement, Yadwinder Singh stated that on 24.12.2012 at about 6.30 PM, he (complainant), his father Hakam Singh, mother Gurmeet Kaur, his wife Ramandeep Kaur and his friend Jaswant Singh son of Ram Singh were sitting in the courtyard of their house, when Jasbir Singh, his father Gursewak Singh, Harmeet Kaur wife of Jasbir Singh, Shaminder Kaur wife of Gursewak Singh and elder brother of Jasbir Singh namely Raghbir Singh @ Pappi of village Longowal as well as Deepa of village Namol along with 4/5 other persons, to whom he can identify, entered their house armed with guns and sharp edged weapons. Harmeet Kaur and Shaminder raised *lalkara* that they be not spared and should be finished whereas elder brother of Jasbir Singh and Deepa caught hold of his father Hakam Singh. Then Jasbir Singh opened fire upon his father Hakam Singh, which hit the abdomen of his father. Jasbir Singh opened second fire which hit the appellant on his upper right arm. When his wife and mother raised noise, Jaswant Singh came forward but the accused ran out of the house along with their respective weapons. Thereafter, Hakam Singh and the appellant were shifted to Civil Hospital, where doctors declared Hakam Singh as brought dead.

After considering the evidence on record, the learned trial Court found that Shaminder Kaur is influential political leader and that she has been falsely implicated as it is a matter of common knowledge that in cases of group rivalries, there is an attempt to involve as many persons as possible of the rival group. It is also found that she is an old lady and accused party had gone to the

house of the deceased, which is situated at different place from where the accused party is residing.

Learned counsel for the appellant contends that Shaminder Kaur is the main brain behind the occurrence and was the force of attack on appellant and his father.

In respect of Shaminder Kaur, the learned Trial Court found that she is 81 years of age and residing at different place than the place of occurrence. Her son Jasbir Singh is the person who is said to have fired fatal shot on Hakam Singh and also fired on the appellant injuring him. The role attributed to her is that of raising *lalkara*. The finding of the learned Trial Court cannot be said to be suffering from any perversity or illegality inasmuch as the old lady would not form part of a group, which as per the complainant consist of 4-5 unknown persons, and entered their house situated at distance. Her young son would not take her old mother to the place of occurrence. The finding recorded by the Trial Court that generally the net is cast wide open is possible finding and based upon correct appreciation of facts.

In respect of Jaswinder Kaur, the only allegation against her is that her .315 bore licensed gun was used by her brother - Jasbir Singh. Mere use of a weapon will not be sufficient to prove her complicity in the commission of the crime. The learned Trial Court has granted benefit of doubt to the said accused as well on reasonable and just grounds.

As far as Randhir Singh and Satwant Singh are concerned, it is sufficient to say that they were not named as accused in the initial version given by Yadwinder Singh on 24.12.2012 at 10.30 PM, within four hours of

occurrence. A perusal of the judgment shows that Yadwinder Singh and the said accused are the residents of the same village. The statement of the appellant that they were other 4/5 unnamed persons shows that the accused were not the person at the spot. Had, they been at the place of occurrence, the appellant would not miss them to identify and disclose their names in the first version given soon after the incident. Both Randhir Singh and Satwant Singh were only implicated on the basis of statement given by Gurmeet Kaur (PW-2), mother of the appellant, under Section 161 Cr.P.C, which is clear improvement and to implicate falsely these accused.

The learned trial Court has appreciated the entire evidence to grant benefit of doubt to the aforesaid four accused. The reasoning given by the trial Court is based on the evidence available on record. We find that there is no perversity or illegality in the order passed by the learned trial Court, which may warrant any interference by this Court in the present appeal.

Consequently, the present appeal is dismissed.

(Hemant Gupta)
Judge

(Raj Rahul Garg)
Judge

19.10.2015

Waseem Ansari