

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.D-1005-DB of 2014

Date of Decision : January 11, 2016

Tirath Singh

.....Appellant

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. Tejinder Pal Singh, Advocate
for the appellant.

Dr. Deipa Singh, Additional Advocate General, Punjab
for respondent No.1-State.

Mr. H.S. Deol, Advocate
for respondent No.2.

T.P.S. MANN, J.

Appellant Tirath Singh, whose wife Balwinder Kaur was niece of deceased Sohan Singh, has filed the present appeal for challenging the judgment dated 28.2.2014 passed by learned Sessions Judge, Saheed Bhagat Singh Nagar whereby respondent No.2-Nachhattar Singh @ Nachhattar Pal @ Billa stood acquitted of the charge under Section 302 IPC.

According to the prosecution, deceased Sohan Singh, aged 80 years and a widower, was putting up with his niece Balwinder Kaur for the last three years. On 15.10.2012 at about 4.00 p.m., respondent No.2-Nachhattar Singh @ Nachhattar Pal @ Billa (hereinafter referred to as

'the accused'), who had been doing the work of digging bores in agricultural fields and previously known to the family of Balwinder Kaur, came to their house stating that he had been beaten and turned out by members of his family. He was hungry and needed food and shelter. After being served with meals, the accused went to sleep in the verandah of the house of Balwinder Kaur. Sohan Singh also slept in the same verandah whereas the appellant and his wife Balwinder Kaur went to sleep on the first floor of their house. On the next morning at about 5.00 a.m., Balwinder Kaur woke up for milching cattle and was going past the verandah when she saw the accused giving blows with the handle of Kahi on the head of her uncle Sohan Singh. When she asked him as to what he was doing, the accused replied that the deceased had abused him. The accused fled from the spot leaving Kahi and its handle at the spot. Sohan Singh had injuries on his head, face, hand, abdomen and legs and had died on account of the same. The matter was reported to the police by the appellant, who was attracted to the place of occurrence on the alarm raised by his wife.

Having heard learned counsel for the parties and on going through the record, which stood requisitioned, this Court finds that in order to prove the ocular account of the occurrence, the prosecution had examined PW2 Balwinder Kaur and PW3 Tirath Singh in whose house deceased Sohan Singh, who was an octogenarian, had been residing. In their respective testimonies they had deposed that the accused had come to their house on the previous evening and wanted to be provided with

food and shelter as he had been turned out from his house. During the night deceased Sohan Singh and the accused slept in the verandah on the ground floor whereas Balwinder Kaur and her husband Tirath Singh went to sleep on the first floor of their house. Despite the same, neither PW2 Balwinder Kaur nor PW3 Tirath Singh had heard any sound, noise, shriek or cry when the accused was said to have caused numerous injuries to deceased Sohan Singh. On the other hand, PW2 Balwinder Kaur got up as she was to milch the cattle and while passing by the side of the verandah she noticed the accused giving injuries to the deceased. Her presence at the time of the occurrence is, thus, by chance.

In order to establish the identity of the accused being the one who was trying to escape from the house of the deceased, the prosecution examined PW1 Gurpreet Singh. He testified that on 16.10.2012 at about 5.30/6.00 p.m., in the morning when he reached near the house of the deceased, he heard noise from his house and, accordingly, went inside the house where he saw Sohan Singh lying dead. He testified that he did not see the accused coming out from house of Tirath Singh. He denied seeing the accused coming out from the house of Tirath Singh. As he did not support the case of the prosecution, he was declared hostile and allowed to be cross-examined by the learned Public Prosecutor but he did not change his stand and testified that it was neither a fact nor he had got recorded that when he reached near the house of Tirath Singh he had seen the accused coming out from his house.

According to the prosecution, the accused had caused injuries to the deceased who had abused him. However, on such a minor issue, the accused would not have taken the life of Tirath Singh by causing as many as 16 injuries.

During his examination under Section 313 Cr.P.C., the accused had stated that he had worked as servant with Tirath Singh for the last 20/25 years and had been demanding unpaid wages from him.

In his defence, the accused examined DW1 Harbans Lal, who corroborated the fact that he had also been working with the accused in the fields of Tirath Singh and the accused not paying them their dues. Under these circumstances, possibility of false implication of the accused by Tirath Singh and his wife Balwinder Kaur cannot be ruled out.

The entire evidence led by the parties has been thoroughly and rightly appreciated by the trial Court in acquitting the accused of the charge against him. No case is made out for any interference in the impugned judgment of acquittal.

The appeal is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

January 11, 2016
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