

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Criminal Appeal S-843-SB of 2004
Date of Decision: September 11, 2017**

Jagtar Singh @ Tara	Versus	Appellant
The State of Punjab		 Respondent

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

Present : Mr. Gagneshwar Walia, Advocate
as legal aid counsel
for the appellant.

Mr. Sandeep Vermani, Additional A.G., Punjab.

T.P.S.MANN, J. (Oral)

The appellant was tried for committing offence punishable under Section 302 IPC. Vide judgment and order dated 19.2.2004, learned Sessions Judge, Ludhiana, acquitted him of the said charge. However, he was convicted under Section 304 Part II IPC and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for four months. Half of the fine amount, upon its realization was ordered to be paid to Jasbir Kaur, wife of deceased Baldev Singh by way

of compensation.

Aggrieved of his conviction and sentence, the appellant filed the instant appeal, which was admitted on 22.4.2004. Subsequently, vide order dated 3.9.2004, a co-ordinate Bench of this Court suspended his sentence of imprisonment and released him on bail.

According to the prosecution, appellant Jagtar Singh @ Tara and deceased Baldev Singh were neighbours in village Nangal Khurd. Paramjit Singh, brother of the appellant had died leaving behind his wife Gurmmet Kaur. Said Gurmeet Kaur lived at Halwara. The appellant had suspicion against the deceased of having illicit relations with his sister-in-law. On 23.10.2000 at about 8.00 a.m., Jagjit Singh, brother-in-law of the deceased had come to his house. At about 9.30 a.m., the deceased went to a shop in village to make petty purchases. When he passed in front of the house of the appellant, Jasbir Kaur wife of the deceased and Jagjit Singh were standing outside the door of their house. Ajaib Singh came and informed that the appellant was quarreling with the deceased. In order to separate the deceased and the appellant, Jasbir Kaur and Jagjit Singh went there. They saw that the appellant was armed with a soti with which he gave blows to the deceased on his right shoulder, right ear and right eye. The appellant was proclaiming that the deceased was having an evil

eye on his sister-in-law. On receipt of the injuries, Baldev Singh fell down and became unconscious. The appellant fled away while carrying soti with him. In the meantime, Ajaib Singh had come there and also witnessed the occurrence. Baldev Singh, who was unconscious was taken to Civil Hospital, Pakhowal. However, Jasbir Kaur and Jagjit Singh took him to D.M.C. and Hospital, Ludhiana, where the doctor declared the injured dead.

The dead body of Baldev Singh was subjected to postmortem by Dr. Ashok Raswant on 24.10.2000 at 9.35, who found the following injuries:-

- “1. Abraded contusion 2½ " x 1" on the right cheek.
2. Lacerated wound 1" x ¼th on the right zygomatic region.
3. Reddish contusion 3" x 1" on the lateral aspect of right arm.
4. Reddish contusion 3" x 1" near injury No. 3.
5. Diffused swelling on the right side of mandible and underlying mandible was fractured.
6. Contusion 1½ " x ½" on the right deltoid region”.

The cause of death in his opinion was due to head injury and injury to mandible, which was sufficient to cause death in the ordinary course of nature.

At the trial of the case, the prosecution examined PW1 Dr. Ashok Raswant, PW2 Dr. Amit Sadana, PW3 Jasbir Kaur, PW4 Jagjit Singh, PW5 HC Hardeep Singh and PW6 SI Balwinder Singh.

Having heard learned counsel for the parties and on going through the record, the learned trial Court came to the conclusion that it was the appellant, who had caused as many as six injuries on the person of Baldev Singh, which injuries proved fatal and he expired as a result thereof. However, as it was a case of sudden quarrel between the appellant and the deceased when the deceased happened to pass in front of his house, the appellant caused injuries to him with a stick. While holding that there was no intention on the part of the appellant to cause death of Baldev Singh, the learned trial Court came to the conclusion that the offence would clearly fall under Section 304 Part II IPC and, accordingly, the appellant was convicted and sentenced, as mentioned above.

This Court has heard learned counsel for the parties and perused the evidence with their able assistance. The ocular account of the occurrence is duly proved by PW3 Jasbir Kaur and PW4 Jagjit Singh. They have stated in unequivocal terms that it was the appellant, who was carrying a soti with him at the time of incident, which he had wielded in causing as many as six injuries

on the person of Baldev Singh. Said Baldev Singh was rushed to Civil Hospital Pakhowal and from there, he was taken to D.M.C. and Hospital, Ludhiana, where the doctor declared him dead.

Dr. Ashok Raswant has also opined that the cause of death was due to injuries on the head and mandible of the deceased. The medical evidence fully corroborates the ocular account.

Keeping in view the fact that it was a sudden quarrel and there being no premeditated attack, the appellant had no intention to cause the death of Baldev Singh deceased, and, as such, no case is made out for any interference in the conviction under Section 304 Part II IPC.

As regards the question of sentence, it may be noticed that the appellant is facing the agony of criminal prosecution for the last about seventeen years. He is on bail pursuant to the order passed by this court on 3.9.2004. As per the custody certificate produced by the learned State counsel, the appellant has undergone an actual period of three years, eleven months and twenty two days besides earning remissions of two years and twenty eight days. In all, he has undergone a period of six years and twenty days.

After hearing learned counsel for the parties and taking into consideration the aforementioned facts, this Court is of

the view that no useful purpose will be served by sending the appellant behind the bars, once again, for undergoing remaining sentence of his imprisonment. Ends of justice shall be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him.

Resultantly, the conviction of the appellant under Section 304 Part II IPC is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The sentence of fine alongwith its default clause is maintained. The entire amount of fine, if realized from the appellant be disbursed in favour of Jasbir Kaur, wife of deceased Baldev Singh by way of compensation.

The appeal is, accordingly, disposed of.

September 11, 2017
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No