

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-D-340-DB-2004
Reserved on : 08.01.2020
Date of decision: 10.01.2020

Chattarpal Singh @ Satnam Singh @ Satti

... Appellant

Versus

State of Punjab

... Respondent

CORAM: *HON'BLE MR. JUSTICE RAJIV SHARMA*
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Ms.G.K.Mann, Advocate
for the appellant.

Mr.H.S.Grewal, Addl.A.G. Punjab.

Mr. Veneet Sharma, Advocate
for the complainant.

RAJIV SHARMA, J.

This appeal has been instituted against the judgment and order dated 27.02.2004 rendered by the Additional Sessions Judge (Adhoc), Amritsar, in Sessions Trial no.80 of 2003 whereby the appellant was charged with and tried for offence punishable under Section 302 Indian Penal Code (in short 'IPC'). The appellant was convicted thereunder and sentenced to undergo life imprisonment and to pay a fine of Rs.2000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month. The co-accused Rajwant Kaur was charged with and tried for offence punishable under Section 109 of the IPC. However, she was acquitted.

2. The case of the prosecution in a nutshell is that Ravail Singh

and Chattarpal Singh were real brothers. Kewal Singh was their elder brother. Their father had died 7/8 years back. The residences of Ravail Singh and Chattarpal Singh were in their fields. Kewal Singh used to reside in the abadi of village Tapiala. Chattarpal Singh was not satisfied with the partition of the land made by his father. He used to quarrel with his brothers Ravail Singh and Kewal Singh, deceased. The matter was reported to the Panchayat. On 18.06.2002 at about 10.00/11.00 A.M. Chattarpal Singh went to the house of Kewal Singh. He hurled abuses at him. Kewal Singh went to the Behak of Ravail Singh and complained against Chattarpal Singh. Thereafter, on the same day, Ravail Singh and Kewal Singh went to Chogwan and came back at 06.30 P.M. Kewal Singh stayed overnight with him. On the next morning at about 4.00 A.M. Kewal Singh went to his house at village Tapiala. Ravail Singh followed him apprehending that due to the dispute that had taken place on the previous day, accused may not cause harm to Kewal Singh. One leg was fractured. He could not walk freely. He used to move around on his cycle. When they reached near the bridge of the drain, they saw accused Chattarpal Singh armed with spear and two more unknown persons having *kirpan* and *dang* with them, standing there. They stopped Kewal Singh. He came down from his cycle. They attacked him with their weapons. Kewal Singh fell down. Even then, Chattarpal Singh and his companions inflicted him injuries with their weapons. Kewal Singh succumbed to his injuries. Ravail Singh rushed to the house of the deceased Kewal Singh. He informed his wife and other family members. FIR was lodged. The SHO recorded the statement Ex.PB of Ravail Singh on the basis of which FIR Ex.PB/2 was registered. SHO

visited the place of occurrence. He conducted the inquest proceedings. Inquest report is Ex.PC. Dead body was entrusted to HC Salwinder Singh and C.Amrik Singh for post-mortem examination. Blood stained earth was collected from the spot. Rough site plan Ex.PM was prepared. Case property was deposited with the MHC. The investigation was completed and the challan was put up after completing all the codal formalities.

3. Prosecution examined a number of witnesses. Statements of appellant and the co-accused were also recorded under Section 313 Cr.P.C. They have denied the case of the prosecution. The appellant was convicted and sentenced as noticed hereinabove. Hence this appeal.

4. Learned counsel appearing for the appellant has vehemently argued that the prosecution has failed to prove the case against the appellant.

5. Learned counsel appearing on behalf of the State and counsel for the complainant have supported the judgment and order dated 27.02.2004.

6. We have heard learned counsel for the parties and have gone through the judgment and record very carefully.

7. PW-2 Ravail Singh testified that appellant Chattarpal Singh was his younger brother. His father had divided the land amongst brothers. He and accused Chattarpal Singh were living in separate Behaks in their fields opposite to each other. Kewal Singh was living in village Tapiala. Chattarpal Singh was not satisfied with the division of land. On 18.06.2002 at about 10.00/11.00 A.M. an altercation took place between Kewal Singh and Chattarpal Singh. He was informed by Kewal Singh at about 4.00 P.M.

about it. In the evening they went to village Chogwan. At about 6.00/7.00 P.M. they came back to Behak. Kewal Singh also came with him and stayed overnight with him. At about 4.00 A.M. on 19.06.2002 they started for his village on the cycle. He followed him on foot. Kewal Singh was having defect in his leg, so he used to go on cycle. When they reached near the village, accused Chattarpal Singh armed with spear along with two other persons was standing there. One of those persons was armed with a *kirpan* while the other was armed with a *dang*. All three came in front of the cycle of Kewal Singh. Kewal Singh came down from the cycle. Accused Chattarpal Singh along with other two persons started inflicting injuries to Kewal Singh. He fell down. The injuries were also inflicted by other two persons. He witnessed the occurrence and raised alarm. Accused ran away from the spot. Kewal Singh died on the spot. He went to the house of the deceased and informed his wife. He went to Sarpanch Kuldeep Singh. His statement Ex.PB was recorded. Police reached the spot. Inquest report Ex.PC was prepared. In his cross-examination, he admitted that his Behak was at a distance of half kilometer from village Tapiala. The drain was at a distance of about one killa from village Tapiala. His father had partitioned his land amongst his sons 7/8 years prior to his death. Since then each brother was cultivating his share of land independently. His father died about 7/8 years back. No litigation ever took place regarding distribution of land in the Court. Accused used to quarrel with him regarding partition of the land earlier but now he was not quarreling with him. They had not given any application to the Panchayat against the accused regarding the land dispute. They had not informed the police about altercation of the accused

with the deceased. He accompanied Kewal Singh as he apprehended danger to his life. He did not feel it necessary to drop Kewal Singh in his car. They were not armed with any weapon. He had two guns and one pistol. Previously he had a pistol but the same was sold one year prior to the occurrence. He had not given the detail of injuries inflicted by the accused with his spear on the deceased. He could not give the detail of injuries inflicted by two companions of the accused with *dang* and *kirpan*. Companions of the accused inflicted multiple injuries on the deceased. He could not tell the exact number. He had not made any statement before the police on 25.06.2002. He had not stated that Chattarpal Singh alone was the assailant of his brother Kewal Singh. He was confronted with Mark A to A1 where it was so recorded.

8. PW-3 Satwant Kaur was the wife of the deceased. According to her, her father-in-law divided the land in three equal shares amongst his three sons. Accused Chattarpal Singh was not happy with the partition. Accused Rajwant Kaur was also not happy with the partition. In her cross-examination, she has categorically admitted that partition was done by her father-in-law during his life time, i.e. about three years prior to his death. Accused had no dispute with his father regarding partition of land. Her statement Ex.DA was recorded. She had mentioned in her statement before the police that on the same day in the evening after abuses, her husband, went to the Behak of Ravail Singh to inform him about it. She was confronted with her statement Ex.DA where this fact was not mentioned. She had mentioned in her statement to the police that her husband Kewal Singh stayed overnight at the Behak of Ravail Singh after he had gone to

him in the evening. She was confronted with her statement Ex.DA where this fact did not find mention. They did not request Kewal Singh to lodge the report regarding hurling abuses to him by the accused. They had not narrated the said fact to any office bearer of the village.

9. PW-4 Inspector Kishan Singh had partially investigated the matter. According to him, on 08.07.2002 the accused made a disclosure statement that he had concealed spear in his field in the *chari* crop. Disclosure statement is Ex.PG. Accused led the police party. In pursuance of disclosure statement, he got recovered one spear from the disclosed place. It was taken into possession. In his cross-examination, he categorically admitted that no effort was made to identify or arrest the alleged companions of the accused as mentioned in the FIR.

10. PW-5 Dr.Gurmanjit Rai conducted the post-mortem examination. He had noticed following injuries on the person :-

“1. Incised wound 7 x 3 cm on right side of forehead vertically placed just below the eye brow. Clotted blood was present.

2. An incised wound 3 x 1 cm was present on left pinna which was vertically placed and muscle deep. Clotted blood was present.

3. Reddish blue bruise 15 x 1.5 cm on left side of chest and abdomen vertically placed in the mid axillary line.

4. 7 x 4 cm reddish blue bruise with swelling was present on lower 1/3rd of left upper arm and elbow.

5. *Reddish blue bruise 6 x 2 cm was present on left epigastric region of abdomen, obliquely placed.*
6. *An incised wound 7 x 3 cm was present on left side of mouth and chin, lips and tongue were found cut. Medicle and teeth were found fractured.*
7. *Reddish blue bruise 7 x 2 cm was present on front of left side of chest obliquely placed just below the calival.*
8. *13 x 5 reddish blue bruise was present on front of left shoulder.*
9. *Lacerated wound 6 x 2.5 cm vertically placed was present on back of middle 1/3rd of left forearm. Radius bone was found cut. Clotted blood was present.*
10. *Reddish blue bruise 13 x 2 and 11 x 3 cm were present on back and other aspect of right buttock and right thigh. They were obliquely placed.*
11. *Lacerated wound 4 x 1.5 cm was present on back of right forearm obliquely placed in its middle. Clotted blood was present. On dissection fracture of right radius bone was present in its middle.*
12. *An incised wound 2.5 x 1.5 cm was present on back and outer aspect of right thumb in its middle and was obliquely placed. Fracture of middle and distal phalanx was present.*

13. *Reddish brown abrasion 4 x 1 cm was present on right knee.*

14. *Two reddish blue bruises 10 x 1.5 cm and 7 x 1.5 cm were present on front and outer aspect of left thigh in its lower 1/3rd and were horizontally placed.*

15. *Diffused swelling 6 x 4 cm was present on back of left hand.*

16. *Reddish blue bruises 3 x 1 cm was present on left eyebrow."*

The cause of death was haemorrhage and shock as a result of injuries which were sufficient to cause death in the ordinary course of nature. Probable time elapsed between injuries and death was within few minutes to half an hour and between death and post-mortem was about 6 to 12 hours. All the injuries were found ante-mortem in nature. He proved post-mortem report. He admitted in his cross-examination that out of 16 injuries found on the body, 4 were incised and the remaining were caused by blunt weapon. These injuries could be result of any blunt weapon like *dang*, iron rod or wooden log.

11. PW-9 Inspector Jarnail Singh testified that he recorded Ex.PB statement of PW-2 Ravail Singh. FIR was registered. Recovery was effected from the spot. Rough site plan Ex.PM was prepared. Case property was deposited with the MHC on the same day. Thereafter, investigation was taken up by some other officer. In his cross-examination, he testified that statement of Ravail Sigh was correctly recorded by him. As per the FIR, there were three assailants. Only Chattarpal Singh was named in the FIR and others were unknown. Till the investigation remained with him, he did

not come to know as to who were the unknown persons.

12. The FSL report is Ex.PX and Ex.PX/1. *Barchha* was found to be stained with blood as per Ex.PX. According to the result of the examination in Ex.PX/1, exhibits b-1 (*kurta*), b-2 (*pyjama*), b-3 (*kachha/underwear*), b-4 (turban) were stained with human blood. No blood was found on exhibit b-5 (*kara*).

13. The motive attributed to the appellant is that he was not happy with the partition. The fact of the matter is that the appellant had two more brothers. PW-2 Ravail Singh has categorically testified in his cross-examination that his father had partitioned his land amongst his sons 7/8 years prior to his death. Since then each brother was cultivating his share of land independently. His father died about 7/8 years back. No litigation ever took place regarding distribution of the land in any Court. Similarly, PW-3 Satwant Kaur, wife of the deceased has also testified in her cross-examination that partition was done by her father-in-law during his life time. Accused had no dispute with his father regarding partition of the land. Thus, the motive attributed to the appellant is not proved.

14. PW-3 Satwant Kaur in her examination-in-chief has specifically deposed that her father-in-law had divided the land in three equal shares amongst the brothers. Since the land had been distributed equally, there could not be any issue regarding partition of the land. The conduct of PW-2 Ravail Singh has remained unusual. In his statement Ex.PB, he has categorically deposed that his brother Kewal Singh had come to him and stayed overnight. He accompanied his brother towards the house of deceased. When they reached near the bridge, his brother Kewal Singh was accosted by three persons. Chattarpal Singh was armed with

spear and two other persons, one of them armed with *kirpan* and other with *dang*. Kewal Singh was inflicted injuries by them. He died on the spot. He went to the house of his brother. Statement of PW-2 Ravail Singh was again recorded vide Mark A on 25.06.2002 in which he has stated that Chattarpal Singh was alone present on the spot who had inflicted the injuries. PW-2 Ravail Singh has denied making statement dated 25.06.2002. The fact of the matter is that he was confronted with Mark A. Similarly, statement of PW-3 Satwant Kaur was also recorded on 23.06.2002 vide Ex.DA. She had not mentioned in Ex.DA about her husband stayed overnight in the house of her brother-in-law, i.e. PW-2 Ravail Singh. The matter was partially investigated by PW-9 Inspector Jarnail Singh. He admitted in his cross-examination that there were three assailants. Till the investigation remained with him, he did not come to know as to who were the two unknown persons. Remaining investigation was carried out by PW-4 Inspector Kishan Singh. In his cross-examination, he has specifically stated that no effort was made to identify and arrest the alleged companions of the accused as mentioned in the FIR. The cause of death was haemorrhage and shock as a result of injuries. The deceased had 16 injuries. In his cross-examination, PW-5 Dr.Gurmanjit Rai has admitted that out of 16 injuries found on the body, 4 were incised and remaining were caused by blunt weapon. The nature of injuries could not be caused with spear which was allegedly recovered from the appellant on the basis of disclosure statement Ex.PG. PW-2 Ravail Singh has not given any description of other assailants.

15. The prosecution case is also that PW-2 Ravail Singh accompanied his brother since there was apprehension of Kewal Singh being attacked by Chattarpal Singh. It has come in the statement of PW-2

Ravail Singh that he was in possession of two licensed guns but fact of the matter is that on that day, he was not carrying the guns. In case he had apprehension, he would have definitely carried the guns with him. PW-2 Ravail Singh was in possession of car but he had not chosen to drop his brother in the car. The stand taken by PW-2 Ravail Singh is contradictory and not plausible. The motive attributed to the appellant has not been proved. The conduct of PW-2 Ravail Singh has remained unusual. There is inconsistency in the statements of Ravail Singh Ex.PB/2 recorded on 19.06.2002 and Mark A recorded on 25.06.2002. The police has not taken any steps to identify and apprehend the two unknown persons who as per statement of PW-2 Ravail singh were accompanying Chattarpal Singh. Accordingly, the prosecution has failed to prove the charges against the appellant beyond reasonable doubt.

16. Accordingly, the appeal is allowed. The judgment and order dated 27.02.2004 are set aside. The appellant is acquitted of the charges framed against him.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

January 10, 2020.
Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No