

Supreme Court of India

Jagat Singh vs State Of Punjab on 13 May, 1994

Equivalent citations: 1994 SCC, Supl. (2) 293 JT 1994 (4) 59

Author: K J Reddy

Bench: Reddy, K. Jayachandra (J)

PETITIONER:

JAGAT SINGH

Vs.

RESPONDENT:

STATE OF PUNJAB

DATE OF JUDGMENT 13/05/1994

BENCH:

REDDY, K. JAYACHANDRA (J)

BENCH:

REDDY, K. JAYACHANDRA (J)

YOGESHWAR DAYAL (J)

CITATION:

1994 SCC Supl. (2) 293 JT 1994 (4) 59

1994 SCALE (2) 963

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by K.JAYACHANDRA REDDY, J.- Original accused 3, Jagat Singh is the appellant in Criminal Appeal No. 620 of 1982 and original accused 1 Jalbir Singh and original accused 2 Avtar Singh are the appellants in Criminal Appeal No. 621 of 1982. These two appeals have been filed against the judgment of the High Court of Punjab and Haryana. These three appellants along with three others were tried for offences punishable under Sections 148, 302, 323 and 302/149 IPC. The trial court acquitted A-4 to A-6 and convicted the three appellants. The appeals filed by them were dismissed by the High Court.

2.A-1 and A-2 are the residents of Village Samashpur Bet and A-3 is the resident of Village Manewal. There had admittedly been a previous prosecution of all the three appellants and some of the acquitted accused in relation to an offence punishable under Section 365 IPC. That offence was committed on 20-11-1980 and the deceased Pritam Singh was said to have been abducted by +From the Judgment and Order dated 5-2-1982 of the Punjab and Haryana High Court in Crl. A. No.

482-DB of 1981 the accused and he also received injuries at their hands. The deceased was said to have been wrongfully confined in the house of A-3 at Village Manewal. There were security proceedings also between the two parties. According to PW 3, Harkesh Singh, a panchayat consisting of respectable persons was convened to resolve the dispute between the two parties. PW 3 along with PW 4, Tarlochan Singh, PW 5 Baljit Singh and others attended the panchayat. No compromise took place and after the dispersal of the gathering, the deceased, PWs 3 and 4 started on the way back to their houses on different bicycles at about 8.30 p.m. When they reached the place of occurrence in Rahimabad Khurd, all the six accused armed with weapons opened the attack. A-1 and A-2 were armed with gandasis, A-3 was armed with a takwa, A-4 armed with a sua and the remaining accused were armed with lathis. Gursant Singh, one of the acquitted accused gave a lalkara for catching hold of Pritam Singh. Thereupon A-2 gave a blow with his gandasi on the head of the deceased as a result of which he fell down. Then A-1 with his gandasi and A-3 with his takwa gave blows on the left side of the body of the deceased. A-4 gave a blow with the sua in the abdomen of the deceased. According to the prosecution the deceased who was also carrying a gandasi gave some blows to A-1 and A-2 after having fallen down. PW 3 raised an alarm and A-1 gave a blow with the blunt side of the gandasi on his right eye and A-6 dealt a blow with a lathi on PW 4. PWs 3 and 4 leaving their bicycles ran away and they brought one Ranjit Singh resident of Village Manewal to the place of occurrence. They found that the deceased was dead. PW 4 and others remained with the dead body. PW 3 went and gave a report to SI of Police, PW 7. A case was registered and the investigation was taken up. ST proceeded to the place of occurrence and got PW 3 medically examined and after inquest the dead body was sent for postmortem. PW 1, the doctor, who conducted the postmortem found 10 injuries out of which injuries 1, 5, 9 and 10 were incised injuries. On internal examination the doctor found injuries to spleen and left kidney and injury 9 was opined to be sufficient in the ordinary course of nature to cause death. PW 1 also examined PW 3 on whom he found one abrasion on the right side of the eyebrow. The same doctor also examined PW 4 and on him he found a red coloured bruise on the left shoulder and a lacerated wound on the right thigh. The accused were arrested and after completion of the investigation, the charge-sheet was filed. The prosecution mainly relied on the evidence of the two injured eyewitnesses PWs 3 and 4 and the medical evidence. The trial court acquitted Gursant Singh as only a lalkara was attributed to him. It acquitted Ranjit Singh as no act was attributed to him. As regards A-4, Hoshiar Singh who was alleged to have been armed with a sua and who inflicted an injury in the abdomen of the deceased, the trial court by a somewhat strained reasoning acquitted him observing that injury 5 which was on the abdomen could not have been caused by a sua as per the medical evidence. So far as the three appellants are concerned, the trial court accepted the evidence of PWs 3 and 4 inasmuch as specific overt acts had been attributed to them and convicted them. The State did not prefer any appeal. The High Court confirmed the convictions as mentioned above.

3. Learned counsel for the appellants submitted that injury 5 was a serious injury and that was attributed to A-4 and yet A-4 was acquitted and that there remain only three incised injuries and the appellants cannot be held to have inflicted those injuries. It is also submitted that the bicycles were not recovered and it was night time and the identification of the appellants by these witnesses is not free from doubt. We see no force in these submissions. As already held there are 14 injuries. No doubt most of them are abrasions but some of them are linear abrasions of considerable size and the doctor opined that these injuries could be caused by a sharp-edged weapon. As a matter of fact, the

FIR was given promptly and in that specific overt acts have been attributed to A-1 to A-3 namely the appellants. Both the witnesses have given consistent versions and both the courts below have discussed the threadbare evidence of PWs 3 and 4 and have given good reasons for accepting their evidence. So far acquittal of A-4, Hoshiar Singh is concerned, the reasons given by the trial court are not altogether sound but the fact remains that no appeal against acquittal has been filed. But the acquittal of A-4, to whom specific overt acts attributed, does not in any way affect the case against the convicted accused.

4. The main submission of the learned counsel is that the two convicted persons A-1 and A-2 had injuries and the prosecution has not properly explained and the versions of PWs 3 and 4 that the deceased who had a gandasi inflicted injuries on these two accused after he fell down, is artificial and a false explanation. Therefore, according to the learned counsel, a true account of the genesis of the occurrence has not been put forward by the prosecution.

5. PW 1, the doctor, who examined Jalbir Singh, A-1 found on him one lacerated wound on the inner side of the left middle finger muscle deep and a lacerated wound on the back of middle inter-phalangeal joint of left middle finger which was only skin deep and a small abrasion on the upper lid of the left eye. PW 1 found on A-2, Avtar Singh a lacerated wound on the right side of scalp about 2" x 1/3" x scalp deep. From these injuries it can be seen that they are very simple. No doubt the single injury on A-2 was on the head but that was also a simple and a small injury. In the FIR as well as in the present evidence of the eyewitnesses, it is mentioned consistently that the deceased after he had fallen, wielded his gandasi. Therefore it cannot be said that they have not been explained. Learned counsel, however, submits that this explanation is false and the accused are entitled to the right of private defence and even though they have not pleaded, yet in the circumstances the benefit of the exception should go to them and at the most they can be held to have exceeded that right. We see no force in this submission. As already noted the injuries on these two accused are very minor and even if the prosecution has failed to explain such injuries that by itself is not enough to reject the prosecution case as untrue. We may incidentally mention here that there is not a whisper on the side of the accused as to how they happened to receive the injuries. No doubt the burden is not on them but in appreciating the facts of the case, that aspect also has to be borne in mind. Even otherwise a number of injuries found on the deceased would go to show that these three accused mercilessly assaulted the deceased and inflicted serious injuries.

6. Learned counsel feebly contended that it was a sudden fight due to a quarrel and therefore Exception 4 to Section 300 also is attracted. In this context he also relied on the judgment of this Court in *Jumman v. State of Punjab*. There is absolutely no basis for this submission. It was only after panchayat was over that the deceased and PWs 3 and 4 were going to the village and they were 1 AIR 1957 SC 469: 1957 Cri LJ 586 waylaid and attacked. Therefore Exception 4 to Section 300 in no manner is attracted. Accordingly these appeals are dismissed.