

A STATE OF PUNJAB

v.

MOHINDER SINGH & ORS.

(Criminal Appeal No. 1365-66 of 2002)

B FEBRUARY 27, 2009

[DR. ARIJIT PASAYAT AND DR. MUKUNDAKAM
SHARMA, JJ.]

Penal Code, 1860 – ss. 302, 450, 324, 148 r/w s. 149 –

C *Conviction under – Acquittal by High Court – Interference with – Held: Order of High Court was non-reasoned, sketchy and based on surmises and conjectures – There was no delay in lodging or dispatching FIR to Magistrate – Injuries on accused persons were superficial – Thus, matter is remitted to High Court for consideration afresh.*

E *Prosecution case was that due to previous enmity, four accused persons, armed with weapons came to the house of the complainant party. They caused injuries to son of PW-2, PW-3 and PW-4. The injured were taken to the hospital. Son of PW-2 succumbed to his injuries. Thereafter, FIR was registered. Prosecution witnesses as also eye-witnesses were examined. Trial court convicted and sentenced the respondents-accused u/s 302, 450, 324, 148 r/w s. 149 IPC. However, High Court acquitted them. Hence the present appeal.*

Disposing of the appeal, the Court

G *HELD: High Court's judgment is practically non-reasoned and whatever reasons have been indicated are not only sketchy but also are based on surmises and conjectures. There is also no discussion as to why the conclusions of the trial court have been found to be unsustainable. Trial court found categorically that there was no delay in lodging or despatching the FIR to Illqua*

Magistrate and the injuries on the accused persons were superficial. No report was lodged with the police about the accused person having sustained injuries. There is no counter case and no report appears to have been sent by the doctor who it was claimed by the accused persons to have treated the accused for the injuries sustained. Trial court noted that the occurrence took place around 6 PM. There were several injured persons who were taken to the hospital. Trial court rightly noted that it was but natural for PW-2 whose son had sustained injuries to take him to the hospital to save his life and the life of PW-3 daughter-in-law and PW-4-nephew, instead of going first to the police station. All these aspects have not been dealt with by the High Court. There is also no discussion about evidence of PWs 2 and 4 by the High Court. Thus, the matter is remitted to High Court for a fresh consideration. [Paras 5 and 6] [545-H; 546-A-E]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1365 of 2002.

From the Judgment & Order dated 22.8.01 of the High Court of Punjab & Haryana at Chandigarh in Criminal Appeal No. 203 DB of 1999.

Gagan Deep Sharma, Ajay Pal, Kuldip Singh and Abha Jain for the Appellants.

K.B. Sinha, Kawaljit Kochhar and Kusum Chaudhary for the Respondent.

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. State of Punjab has questioned the correctness of the judgment rendered by a Division Bench of the Punjab and Haryana High Court directing acquittal of the respondents. Each of the respondents was found guilty of offences punishable under Sections

A 302,450,324,148 read with Section 149 of the Indian Penal Code, 1860 (in short the 'IPC'). Learned Additional Sessions Judge Gurdaspur has found the accused guilty and sentenced them as aforesated.

B 2. Prosecution version in a nutshell is as follows:

At about 6 PM on October 31, 1995 Teja Singh (PW2) alongwith his son Joginder Singh and his daughter-in-law Paramjit Kaur(PW3) was present in his haveli in Village china Railwala. His brother Fauja Singh and his son Nirmal Singh (PW4) were living in an adjoining house and were present therein. Soon thereafter accused Dalbir Singh alias Kala, Mohinder Singh and Swinder Singh, all armed with knieves, Baljit Singh alias Beeta armed with Dang, and Jasbir Singh alias Killa, Rachhpal Singh alias Pappu and Ranjit Singh alias Rana all empty handed came to the spot. Rachhpal Singh raised a lalkara that the complainant party be taught a lesson for having got Dalbir Singh arrested by giving false information to the police, Ranjit Singh then caught hold of Joginder Singh from his long hair and Dalbir Singh gave two blows with the knife he was carrying. The other accused also caused injuries to Joginder Singh with their respective weapons. Nirmal Singh and Paramjit Kaur tried to intervene but they too sustained injuries caused by the accused. Fauja Singh raised an alarm hearing which all the accused ran away from the spot. Joginder Singh was removed to the Civil Hospital Gurdaspur where he was declared dead whereas the two injured eye witnesses, Nirmal Singh and Paramjit Kaur, were medico-legality examined. Teja Singh (PW2) also left for the police station but came across a police party headed by SI Sukhmohinder Singh (PW 9) and made his statement to the said officer at 10.55 PM and on its basis the FIR was registered at police station, Dhariwal at 11PM. The special report was delivered to the Illaqa Magistrate at Gurdaspur at 7.22 AM, on November 1, 1995. The accused persons were arrested in the course of the investigation and on its completion, were charged for

[DR. ARIJIT PASAYAT, J.]

offences punishable under Sections 302, 450, 324, 148 read with Section 149 IPC. They pleaded not guilty and were brought to trial. A

In order to establish the accusations prosecution examined eight witnesses. Teja Singh, Parmjit Kaur and Nirmal Singh (PWs.2, 3 & 4) were stated to be eye witnesses and the last two were injured eye witnesses. The trial court placed reliance on their version and directed conviction as aforesaid. Accused persons filed an appeal before the High Court. Primary stand before the High Court was that there was delay in lodging the FIR and sending the special report and injuries on the accused were not explained. It was also submitted that there was no mention in the FIR about the injuries caused on Paramjit Kaur. B

It was pointed out that Kuljit Kaur had sustained injuries inflicted by Kala when she tried to intervene was not mentioned in the FIR. The High Court accepted the stand and directed acquittal. C D

3. Learned counsel for the State submitted that the High Court's judgment is practically non-reasoned. The trial court had analysed the evidence and noticed that there was no delay in either lodging the FIR or in dispatching a special report. Further the trial Court had categorically noted that the injuries on the accused were superficial. E

4. Learned counsel for the respondent on the other hand submitted that the whole truth has not been disclosed and therefore the High Court was justified in directing acquittal. It is submitted that the scope for interference with an order of acquittal is very limited and only where the judgment is perverse or contrary to evidence on record, the appellate court in a given case may interfere. F G

5. It is to be noted that the High Court's judgment is practically non-reasoned and whatever reasons have been indicated are not only sketchy but also are based on surmises and conjectures. There is also no discussion as to why the H

- A conclusions of the trial court have been found to be unsustainable. It is to be noted that the trial court found categorically that there was no delay in lodging or despatching the FIR to Illqua Magistrate and the injuries on the accused persons were superficial. It is accepted that no report was
- B lodged with the police about the accused person having sustained injuries. There is no counter case and interestingly no report appears to have been sent by the doctor who it was claimed by the accused persons to have treated the accused for the injuries sustained. The trial court noted that the
- C occurrence took place around 6 PM. There were several injured persons who were taken to the hospital. The trial court rightly noted that it was but natural for Teja Singh whose son Joginder Singh had sustained injuries to take him to the hospital to save his life and the life of Paramjit Kaur and Nirmal Singh, instead of going first to the police station. All these aspects have not been dealt with by the High Court. There is also no discussion about evidence of PWs 2 & 4 by the High Court.

6. In the aforesaid background we deem it proper to remit the matter to High Court for a fresh consideration and disposal of the appeal by a reasoned judgment. Since the matter is pending since long, we request the High court to explore the possibility of early disposal of the matter.

7. The appeal is disposed of accordingly.

F Criminal Appeal No. 1366 of 2002.

Teja Singh v. Mohinder Singh & Ors.

DR. ARIJIT PASAYAT, J. 1. This appeal is connected with Criminal Appeal No. 1365 of 2002 which has been disposed of by us today by a separate judgment. The present appeal is by the complainant and the order passed in Criminal Appeal No. 1365 of 2002 shall operate so far as the present appeal is concerned. The appeal is disposed of accordingly.

H N.J.

Appeal disposed of.