

PETITIONER:  
HARDEV SINGH & ANR.

Vs.

RESPONDENT:  
STATE OF PUNJAB

DATE OF JUDGMENT: 10/12/1998

BENCH:  
G.T.Nanavati, M.Srinivasan

JUDGMENT:

Nanavati.J.

The appellants and four others were accused or having committed murder of Nachattar Singh in pursuance of their conspiracy. Out of six accused, only three could be put up for trial as Gurtej Singh, Chamkaur Singh and Jagdev Singh were found absconding and their presence could not be obtained at the trial. In fact they were declared as proclaimed offenders. The trial court believed the evidence of the prosecution witnesses and held that Gurtej Singh and the said murder was committed by them in pursuance of the conspiracy hatched by them along with Hardev Singh, Pritam Kaur and Paramjit Kaur. The trial court, therefore, convicted two appellants and Paramjit kaur for the offence punishable under Section 302 read with Section 120.B IPC. All the three appealed to the High Court and their appeal was dismissed.

Hardev Singh and Pritam Kaur have now approached this Court challenging their conviction. What is urged by the learned counsel for the appellants is that the evidence led by the prosecution to connect the appellants with the murder of Nachattar Singh is really insufficient and, therefore, their conviction under Section 302 read with Section 120-B IPC is neither proper nor legal.

As pointed out by the High Court, the evidence led by the prosecution against the appellants was to the effect that they suspected that Nachatter Singh had killed Joginder Singh, father of appellant No. 1 and husband of appellant No.2 and they wanted to take revenge. On one day in presence of Mukhtiar singh PW-4, Parminder Singh PW-5 and Avtar Singh PW-7 they declared that they would take revenge. These witnesses had seen Gurtej Singh in the house of the appellants and heard him assuring appellant No.2 not to worry as they were going to show the result.

We have gone through the evidence of these witnesses and we find that their evidence on this point does not appear to be reliable. Their passing by the house of the appellants at the time when it was so stated is rather difficult to be accepted. The High Court has not given any good reason for accepting that part of the evidence of these witnesses. Merely from one occasion when prosecution witness Mukhtiar singh had seen Jagdev Singh and Gurtej singh in the

house of the appellants. It was not proper to jump to the conclusion that they had gone there with a view to assure the appellants that they would take revenge by committing murder of Joginder Singh and the appellants had conspired with them for doing so. In our opinion the prosecution has failed to connect the appellants with the murder committed by Gurtej Singh and Chamkaur Singh. We, therefore, allow this appeal set aside the conviction of the appellants and acquit them of the charge levelled against them.

JUDIS