

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1834 OF 2013
[Arising out of S.L.P.(Crl.)No.2525 of 2013]

Sita Ram

.....Appellant

Versus

Balbir @ Bali & Anr.

.....Respondents

J U D G M E N T

VIKRAMAJIT SEN, J.

1. Leave granted.
2. The Appellant, who is the informant in FIR No.141 dated 6.5.2011 at Police Station, Kalanaur, District Rohtak, for offences punishable under Sections 109, 114, 148, 302, 307, 323 and 325 IPC read with Section 149 IPC and Section 25 of the Arms Act, assails the impugned Order dated 11.2.2013 passed by the High Court of Punjab & Haryana granting bail to Respondent no.1, namely, Balbir @ Bali. The learned Single Judge has been impressed by the fact that the injuries on deceased Vishnu (Brother-in-law of the Appellant/Informant), as mentioned in the FSL Report, had been caused by a high speed bullet projectile fired most probably from a .315 bore standard rifle which, according to the version in the FIR, was not the weapon carried by

Balbir/Respondent no.1. The learned Judge has also noted that the six witnesses examined under Section 161, Cr.P.C. have not specifically stated that the Respondent no.1 was holding a firearm. However, what emerges from their statements is that on an indication given by Balbir/Respondent no.1, Vishnu was fatally fired upon. The factum of Respondent no.1 having been incarcerated at that time for one year and seven and a half months also appears to have weighed on the learned Single Judge.

3. On the contrary, the Addl. Sessions Judge, Rohtak, by Order dated 22.3.2012 had dismissed the Bail Application filed by Balbir/Respondent no.1. He had noted that the alleged sequence of events inter alia were that when a donation had been demanded from the Appellant he had agreed to match the amount given by his neighbour in the *Anaj Mandi*, where this entire incident occurred. The persons demanding the donation, however, stated that Respondent no.1 had instructed them to collect Rs.50,000/- from the Informant/Appellant and on being so told, the latter had stated that Respondent no.1 owed him Rs.5,00,000/- out of which they could deduct Rs.2,50,000/- as his donation provided the remaining Rs.2,50,000/- was returned to him. On this conversation being reported back to Respondent no.1, he arrived at approximately 5.00 p.m. at the *Anaj Mandi* and accosted the Appellant/Informant by verbal abuses as well as by fist blows. Appellant ran away from the spot and

immediately lodged a police report. Nevertheless, at 7:00 p.m., Respondent no.1 along with 30-35 supporters armed with weapons again came to the shop of the Appellant and administered *lathi* blows and also opened fire, leading to injuries to several persons and a fatal injury to Vishnu.

4. We have perused the FIR and are satisfied that the narration of events of the Additional Sessions Judge is consistent thereto. The Appellant/Informant has mentioned the names of Respondent no.1 as also Rajesh, Pawan, Kala, Salad, Mukesh, Kuldip Singh, Satbir, Sombir, Naresh, Rishi and his brothers, Bindu, Hansi, Dharam, Ajit, Leela, Raja and Rajbir and the fact that all these persons were armed with weapons. In the FIR, the Appellant/Informant has stated that Respondent no.1 fired upon his brother-in-law Vishnu from his revolver and thereafter Sombir also fired upon Vishnu. The other persons mentioned also opened fire indiscriminately leading to firearm injuries on several persons who were at the shop of the Appellant/Informant at that fateful time. Injuries caused by blunt weapons (the FIR speaks of Respondent no.1 and party also possessing *lathis*) find mention in the MLC Reports. It is true that the FSL Report does not indicate that Vishnu was killed by a revolver shot, allegedly possessed and fired by Balbir/Respondent no.1; but more likely from a .315 bore standard rifle, as was possessed by Sombir. However, it is also alleged that Sombir fired on the instigation, instance and indication of Respondent

no.1. Moreover, the leading role of Respondent no.1 is not incredible only because an injury from a revolver has not been reported as he could have fired therefrom and missed Vishnu.

5. This incident had caused public panic in the area, as is evident from contemporary newspaper and journalistic reports. Respondent no.1 is indubitably a very influential person in the area, at the time of the incident he was an ex-MLA. Section 109 and Section 149, as envisaged under the IPC have been cited. By Orders dated 23.1.2013, the Addl. Sessions Judge has, on a perusal of the police report and material documents, found existence of a prima facie case under Sections 148, 302 read with Section 149, 307 read with Section 149, 323 read with Section 149 IPC against all the accused and in addition to this a prima facie case under Section 302 IPC, 109 IPC and 25 of Arms Act against Balbir @ Bali, a prima facie case under Section 307 IPC against Naresh and Rishi, a prima facie case under Section 25 of Arms Act against Dinesh @ Kala and Sunil and a prima facie case under Section 27 of Arms Act.

6. Keeping all these factors in perspective, especially the wide-scale injuries suffered by several persons, there is a strong prima facie case of the involvement of the Respondent no.1 in the alleged crimes. Moreover, the antecedents of Respondent no.1 are such that a reasonably strong apprehension of his tampering with witnesses or leveling of threats is imminent and omnipresent. The severity of the

attack should not be overlooked. For these manifold reasons, we set aside the impugned Order dated 11.2.2013, allow the Appeal and cancel the bail granted to Respondent no.1 who shall surrender to custody forthwith.

7. Nothing stated above should however influence the Sessions Judge and the trial of the case shall be conducted on its own merits.

J.

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[T.S. THAKUR]

J.

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[VIKRAMAJIT SEN]

New Delhi
October 24, 2013.

JUDGMENT