

PETITIONER:
POHAP SINGH

Vs.

RESPONDENT:
STATE OF HARYANA & ORS.

DATE OF JUDGMENT: 18/12/1997

BENCH:
G.B. NANAVATI, K. VENKATASWAMI

ACT:

HEADNOTE:

JUDGMENT:

THE 18TH DAY OF DECEMBER, 1997

Present:

Hon'ble Mr.Justice G.T.Nanavati
Hon'ble Mr.Justice K.Venkataswami

Ajay Siwatch, Adv.Ms.Naresh Bakshi, Adv.(N.P) for the appellants
Sushil Kumar Sr.Adv., Subhadra Chaturvedi, Amitabh Chaturvedi, Tarun Bhalla, K.N.Rai and Prem Malhotra. Advs. with him for the Respondents.

J U D G M E N T

The following Judgment of the Court was delivered:
NANAVATI, J.

Both these appeals arise out of the judgment of the Punjab & Haryana High Court in Crl. Appeal No. 579/DB/1986. The High Court acquitted all the accused who were convicted by the trial court. Criminal Appeal No.659/89 is filed by Pohap Singh P.W. 13, father of the deceased Bir Pal. Criminal Appeal No.660/89 is filed by the State.

It was the prosecution case is that while Pohap Singh along with his son Bir Pal and complainant Umed Singh were passing through a public street had reached near the house of Abhey Singh, they were attacked by Abhey Singh and 6 others in view of the previous enmity. As a result of the said attack all the three of them and four others who had come to their rescue received injuries. Bir Pal succumbed to the injuries soon after incident. All of them were, therefore tried for offences punishable under Secs. 148, 302 read with 149, 325 with 149 and read 149 I.P.C. The trial court relying upon the evidence of Pohap Singh, P.W.13 and Hukam Singh, P.W. 12 convicted Abhey Singh and Ram Kumar for the offence punishable under section 302 read with sec.34 I.P.C. Rest of the accused were convicted under sections 148, 325 read with 149 and 324 read with 149.

The High Court on reappraisal of the evidence of Pohap Singh and Hukam Singh came to the conclusion that they had not given a correct version regarding the manner in which the incident had happened Their evidence was disbelieved by the High because the medical evidence disclosed that the accused had received as many as 26 injuries as against 18 injuries received by deceased Bir Pal

and his companions. The High Court has held that the two eye witnesses had made material improvements while giving their evidence. It also held that the eye witnesses have not explained when and under what circumstances they started giving blows to the accused. Only a vague statement made by them that after they were injured some persons who had come there on hearing their cries had wielded their sticks and that is how they received injuries. That version was found by the High Court as improbable and unnatural and therefore, it recorded a finding that the complainant and his companions were the aggressors. They had attacked the accused and whatever injuries were received by them were caused by the accused in exercise of their right of private defence. It is not possible to say that the view taken by the High Court is so unreasonable as to call interference by Court. The findings recorded by the High Court are based on evidence and the reasons given by it cannot be regarded improper or perverse.

The appeals are, therefore, dismissed.