

PETITIONER:
MAJOR SINGH & ORS.

Vs.

RESPONDENT:
STATE OF PUNJAB

DATE OF JUDGMENT: 16/08/1996

BENCH:
MUKHERJEE M.K. (J)
BENCH:
MUKHERJEE M.K. (J)
KURDUKAR S.P. (J)

CITATION:
1996 SCALE (5)868

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

M.K. MUKHERJEE. J.

This appeal under Section 14 of the Terrorist Affected Areas (Special Courts) Act, 1984 is directed against the judgment and order dated May 18, 1985 in case No.76 of 1984 whereby the Special Court, Ferozepur convicted and sentenced the four appellants under Sections 302/34 and 307/34 IPC and further convicted and sentenced the appellant Nazar Singh under Section 25 of the Arms Act, 1959, while acquitting two others.

2(a) Teja Singh (the deceased) was the brother of accused Major Singh, Nazar Singh (two of the appellants before us) and Charan Singh (since acquitted). According to the prosecution case the house of the above three accused persons is behind the house of Teja Singh. They had put that house under lock and key and constructed another house on a plot which was jointly owned by them and Teja Singh. Teja Singh and his sons had requested them to hand over their house in the village abadi to them in lieu of their house constructed on the joint plot. The accused persons, however, did not agree to the proposal and over this issue their relationship became strained.

(b) On March 22, 1984 at or about 6 A.M. Jalour Singh (P.W.4), Harnek Singh (P.W.9) and Joginder Singh (P.W.10), the three sons of Teja Singh, were returning to their house after irrigating their land. When they were about to enter their house the above named three accused persons along with Daroga Singh, Tara Singh (the other two appellants) and Mohan Singh (Since acquitted) who were their friends, suddenly came out of the deori, near the house of Teja Singh and Madan Singh were armed with gandasas, Charan Singh had a pistol and Nazar Singh a barchha with him. On being instigated by Charan Singh, Nazar opened the attack by giving two blows with the barchha on Harnek Singh whereupon he fell down. Then Tara Singh and Daroga Singh started assaulting Joginder Singh with their respective gandasas.

Nazar Singh also gave a barchha blow on his forehead and Tara Singh another on his left leg with their respective gandasas felling him down. Thereafter the accused persons, except Charan Singh, caused further injuries to all the three victims with the weapons they were carrying. Gurdev Kaur, wife of Teja Singh, then came out of the house but seeing the accused went back inside and closed the shutters out of fear. The accused persons however unhinged the shutters, brought her out and started beating her with their weapons resulting in her instantaneous death. The accused persons then fled away with their weapons. In the meantime, Teja Singh had also succumbed to his injuries.

(c) Jalour Singh then went to the house of Labh Singh, the Sarpanch of the village and informed him about the incident. He then came back and took his injured brothers Joginder Singh and Harnek Singh to the Civil Hospital at Mansa in a tractor trolley, leaving behind the village Chowkidar to guard the dead bodies of his parents. After getting his brothers admitted in the Civil Hospital, Jalour Singh went to Mansa Police Station and lodged an information about the incident. Shri Arun Chand, (P.W.12), Station House Officer, recorded the information and after registering a case thereupon left for the spot accompanied by Jalour Singh. Reaching there he held inquest upon the dead bodies of Teja Singh and Gurdev Kaur and forwarded them for post-mortem examination. He seized some blood-stained earth from the spot and prepared a sealed parcel in respect thereof which was sent by him for Chemical Examination.

(d) In course of the investigation the accused persons were arrested and pursuant to the statement of Nazar Singh a barchha was recovered. Similarly, pursuant to the statements of accused Major Singh, Tara Singh and Daroga Singh three gandasas were recovered. On conclusion of investigation the police submitted a charge-sheet against the six accused persons under Sections 148, 302/149 IPC and 307/149 IPC and a separate charge-sheet against the appellant Nazar Singh under Section 25 of the Arms Act, 1959 for unlawful possession of the barchha. Both the cases were tried jointly and disposed of by the impugned judgment.

3. The accused/appellants pleaded not guilty to the charges levelled against them and their defence was that they had been falsely implicated.

4. To prove its case against the appellants, the prosecution examined Harnek Singh (P.W.9), Joginder Singh (P.W.10) and Jalour Singh (P.W.4) to give an ocular version of the incident. Besides, Dr. Janak Raj Goal (P.W.2), who had attended to the injuries of Harnek Singh and Joginder Singh, Dr. C.P. Bansal (RW 8), who had performed autopsy on the dead bodies of Gurdev Kaur and Teja Singh, the two investigating Officers (P.W. 6 and 12) and other formal witnesses were examined by the prosecution. The reports of the Chemical Examination and Serologist were also exhibited on its behalf.

5. On perusal of the impugned judgment we find that the Social Court placed strong reliance upon the evidence of Harnek Singh and Joginder Singh, two of the three eye witnesses as, according to it, injuries on their persons, spoke volume about their presence at the spot. The Special Court next observed that their evidence as to manner in which their parents were killed and they were beaten up by the accused-appellants stood amply corroborated by the medical evidence.

6. We have heard the learned counsel appearing for the parties at length and carefully gone through the entire evidence on record, to ascertain whether the above findings

recorded by the trial Court can be sustained. Our such exercise persuades us to unhesitatingly answer the question in the affirmative. Both P.Ws 9 and 10 have detailed the entire prosecution case including the specific roles played by the four accused-appellants in the killing of their parents as also in assaulting them. Though they were cross examined at length nothing could be elicited to contradict them. It is, of course, true that both of them tried to suppress the fact that their father was earlier involved in some criminal cases but their deviation from truth in that matter does not, in our view, any way affect their credibility as regards their version of the incident having regard to the unimpeachable evidence of Dr. Goel (P.W. 2) who examined them within three hours of the incident and found as many as 35 and 16 injuries on the persons of P.W. 9 and P.W. 10 respectively. The presence of these injuries goes a long way to corroborate their claim that along with their parents they were the victims of attack. We further find that Dr. Bansal (P.W. 8) who held autopsies on the dead bodies of their parents found 30 injuries on the person of Gurdev Kaur and 18 on the person of Teja Singh which again corroborated their evidence. Since the evidence of P.Ws. 9 and 10 fully supports the prosecution case, we need not discuss the evidence of Jalour Singh (P.W.4) nor deal with the criticism made by the learned counsel for the appellants about his evidence.

7. In assailing the prosecution case it was submitted on behalf of the appellants that though a number of people live in and around the alleged place of incident none of them was examined. We do not find any merit in this contention for the incident took place in the early morning and there is no evidence that they or the neighbors were present at the time of the incident.

8. Another contention that was raised on behalf of the appellants was that as Teja Singh had bad antecedents it was not unlikely that he was killed by some others and the appellants were falsely implicated due to enmity. This contention is to be stated only to be rejected in view of the overwhelming evidence on record pointing to the guilt of the appellants.

On the conclusions as above we dismiss the appeal. The appellants, who are on bail, will now surrender to their bonds to serve out their sentences.