

PETITIONER:
HARPAL SINGH

Vs.

RESPONDENT:
THE STATE OF HARYANA (WITH CRL. M.P. NO.1482/85)

DATE OF JUDGMENT: 09/12/1997

BENCH:
G.T. NANAVALI, G.B. PATTANAIK

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

Nanavati, J.

The appellant and one Teja Singh were convicted by the Court of Sessions Judge, Ambala in Sessions Case No. 10 of 1981/Sessions Trial No. 27 of 1981. Their Conviction was confirmed by the High Court. Teja Singh and Harpal Singh challenged their conviction by filing separate appeals in this Court. Criminal Appeal No. 576 of 1982 filed by Teja Singh abated as result of only with Criminal Appeal No. 71/83 filed by Harpal Singh.

The case of the prosecution was Teja Singh had borrowed Rs.500/- from one Balbir Singh two Months before the date of the data of the occurrence. As Teja Singh was not returning the said amount, Balbir Singh, along with Gulab Singh and Gurdev Singh, went to Teja Singh's house for getting back the said amount. They had gone to the house of Teja Singh on 22.11.19980 at about 10 p.m. From near the gate of his house they shouted for Teja Singh. Teja Singh came out of his house armed with a DBBL . 12 bore gun along with Harpal Singh. Balbir Singh Demanded return of the amount and insisted that it should be paid on that day itself. The demand led to an exchange of words followed by grappling between Teja Singh and Balbir Singh. At that time Harpal Caught Balbir Singh. At that time Harpal Singh Caught Balbir Singh by has hair and gave a lalkara to Teja Singh that he should not wait any more and fire a shot at Balbir Singh. Thereupon Teja Singh fired a shot at Balbir Singh which hit him on his chest. Thereafter Teja Singh and Harpal Singh went inside their house. Gulab Singh went to the police station and lodged a complaint.

The trial Court believed the evidence of PW4 Gulab Singh and PW11 Gurdev Singh and held that Balbir Singh died as a result of the shot fired by Teja Singh from him gun that Harpal Singh had caught hold of Balbir Singh by his long hairs and given a lalkara to Teja Singh. It, therefore, convicted Teja Singh for the offence punishable under Section 302 IPC and Harpal Singh under Section 302 read with Section 34 IPC. Both were ordered to undergo imprisonment for life.

The High Court, on re-appreciation of evidence,

confirmed the findings recorded by the Trial Court. It has also found that the evidence of evidence of Gulab Singh and Gurdev Singh is consistent and inspite of thorough cross-examination nothing could be elicited by the defence which would create any doubt regarding truthfulness of their version. The High Court rejected the defence version on the ground that it stood falsified by the evidence of the two doctors Dr.Y.K. Bajaj and Dr.P. Sinha who had medically examined both the accused.

The contention of the learned counsel for the appellant is that so far as Harpal Singh is concerned, it cannot be said he entertained a common intention with Singh to cause the death of Balbir Singh. It was submitted by her that merely giving a lalkara by itself cannot be regarded as sufficient to come to that conclusion. As stated above, Harpal Singh had not only come out of the house of Teja Singh along with him but had also taken part in the assault on Singh even though he was not attacked either by Balbir Singh or any other person accompanying him. It not Harpal Singh's case that he had intervened in that manner to Teja Singh and Balbir Singh from fighting. Moreover from the words uttered by Harpal Singh, namely, that Teja Singh should not wait any more and fire at Balbir Singh it becomes apparent that both Teja Singh and Hardev Singh share the common intention that a shot be fired by Teja Singh at Balbir Singh. It was in pursuance of this common intention that Teja Singh had fired the shot which killed Balbir Singh. Both the Courts were, Therefore, right in drawing an inference from these facts that both Harpal Singh and Teja Singh had entertained a common intention to cause death of Balbir Singh.

As we find that the view taken by the High Court is correct, this appeal is dismissed. In view of the dismissal of the appeal filed by appellant Harpal Singh, no order is required to be passed in the Criminal Miscellaneous Petition filed by the wife of deceased balbir Singh. It also stands disposed of accordingly. The appellant Harpal Singh is directed to surrender to custody immediately so as to serve out the remaining part of his sentence.