

CASE NO.:  
Appeal (crl.) 500 of 2000

PETITIONER:  
BRIJ LAL

Vs.

RESPONDENT:  
STATE OF HARYANA

DATE OF JUDGMENT: 04/12/2001

BENCH:  
U.C. Banerjee & K.G. Balakrishnan

JUDGMENT:

K.G. BALAKRISHNAN, J.

Appellant Brij Lal, along with three others, was tried by the court of Sessions, Sirsa, and convicted and sentenced for the offences punishable under Section 302, 307 read with Section 34 IPC. The appellant challenged his conviction and sentence before the High Court of Punjab & Haryana at Chandigarh, and by order and judgment dated 16th September, 1999, the High Court confirmed the conviction and sentence of the appellant. The facts of the case, in short, are as follows.

On 7.10.1993 at about 8.30 AM, deceased Dharam Paul and his brothers, Mani Ram, Ram Kishan and Om Prakash, were trying to dig a tubewell near the Dhani of the appellant, for which they required a wooden log. Since it was not available there, they left that place in a tractor which was driven by Om Prakash. On their way, they saw the tractor of Brij Lal parked near his field. While their tractor passed by the tractor of Brij Lal, the brothers of the appellant, Brij Lal, made an exhortation to the effect that Dharam Paul and his brothers shall not be spared. The appellant was carrying a rifle. It is alleged that he fired a shot at Dharam Paul which caused extensive injuries to his skull. Brij Lal then fired another shot which hit on the back of Ram Kishan. Brij Lal also made an attempt to fire at Om Prakash, but the bullet hit the tractor. According to the prosecution, after the incident, the appellant and his brothers fled from the scene immediately.

Dharam Paul succumbed to his injuries. The police conducted the investigation and seized the rifle of the appellant. PW-2, Dr. Mohar Singh conducted the post mortem examination on the dead body of the deceased Dharam Paul and it was found that an oval shape lacerated wound of the size 1x1.25 cm on the medial aspect of left eye brow, which was corresponding to entry wound, was present. There was extensive lacerated injury on the scalp in the area of left parietal bone. Except medulla oblongata, the brain matter was missing and left and right parietal bones were having multiple fractures. The doctor opined that the cause of death was due to coma as a result of brain injury.

We heard Mr. Sushil Kumar, learned senior counsel for the appellant. Learned counsel for the appellant pointed out that PW-3, Mani Ram, who was an eye witness and gave the F.I. statement, stated that Brij Lal fired a shot at Dharam Paul which hit the left eye brow of Dharam Paul and as a result thereof his skull from behind was blown off at the exit point and it caused the instantaneous death of the deceased and this evidence, according to the appellants counsel, is weak, false and discrepant and the occurrence might not

have happened as alleged by the prosecution. It is argued that as per the inquest report the main injury on the deceased was shown to have been caused on the back side of the head, whereas the medical evidence showed that injury was caused by a fire arm from the front side of the deceased. The Investigating Officer could not detect the entry wound possibly because the head must have been smeared with blood. The evidence of two eyewitnesses clearly showed that appellant first shot deceased Dharam Paul and there was a second shot at PW4 Ram Kishan. It is true that PW3 deposed that appellant first shot his brother Dharam Paul on the backside of the skull. But the medical evidence shows that this shot hit on eye brow. Based on this, it was contended that it was not the appellant but somebody else hiding on the rear side must have caused this injury. We do not find any force in this contention. The incident happened all of a sudden and when firing took place it would be difficult to state on which part of the body the bullet hit. In the instant case, the evidence of PW4 shows that he himself sustained an injury at the hands of the appellant. It is clearly proved that it was the appellant and none else who was responsible for the crime. The minor discrepancies in the evidence only lend assurance to the credibility of prosecution case.

We do not find any merit in the appeal and the same is dismissed.

J.  
(U.C. BANERJEE)

J.  
(K.G. BALAKRISHNAN)

December 4, 2001.