

Non-reportable

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLAE JURISDICTION

CRIMINAL APPEAL NO.1265 OF 2009

Deepa @ Deep Chand & Anr.

... Appellants

Versus

State of Haryana

...Respondent

J U D G M E N T

Uday Umesh Lalit, J.

This appeal challenges the judgment and final order dated 09.05.2008 passed by the High Court of Punjab and Haryana at Chandigarh in Criminal Appeal No.559-DB of 2000 affirming the judgment of conviction recorded by the learned Additional Sessions Judge, Sonapat, in Sessions Case No.54 of 1999.

2. According to the prosecution, one Amar Singh had two brothers, namely, Data Ram and Sheo Chand. Amar Singh had

four sons, viz., Mauji Ram, Roop Chand @ Roopa, Ram Singh and Deepa Chand @ Deepa. Deep Chand @ Deepa and Sukhbir Singh, son of Mauji Ram, are the present appellants, who were tried and stand convicted for the offence of murder of Roop Chand @ Roopa. Said Roop Chand @ Roopa was unmarried and aged about 80 years on the date of incident and was residing with Randhir Singh, grandson of the above-named Sheo Chand. It is alleged that Roop Chand owned agricultural land which was being cultivated by said Randhir Singh, which fact was not to the liking of his brother Deep Chand @ Deepa and the immediate family.

3. It is alleged that on 04.12.1998 at about 7.00 a.m., Roop Chand had gone to irrigate his land and was followed by Randhir Singh and his son Surender Singh at 8.00 a.m. with his meal. While they were approximately an acre and a half length away from the *kotha* in their field, they saw Roop Chand @ Roopa being attacked by Deep Chand @ Deepa with an axe, by Sukhbir Singh with a *jaili* and Basti Ram, son of Sukhbir with a *gandasa*. These three assailants noted the presence of Randhir Singh and his son Surender Singh and escaped with their weapons. Randhir Singh and Surender Singh immediately

put the injured Roop Chand on their tractor and shifted him to Aggarwal Hospital, Gannaur, for medical treatment. According to the Medico-legal Report (Ext. PN), Roop Chand was brought to the hospital at about 9.20 a.m. and was examined by Dr. G.P. Aggarwal. Dr. Aggarwal sent intimation or *ruqa* (PN/1) to the Police Station at 10.00 a.m., whereupon the Police reached the hospital. Roop Chand was not in a position to make any statement and succumbed to his injuries in the hospital. The Police recorded the statement of Randhir Singh at about 11.50 a.m., pursuant to which FIR No.444 was registered with Police Station, Gannaur.

4. Accused Deep Chand and Sukhbir Singh were arrested on 07.12.1998 and pursuant to their disclosure statements, an axe and a *jaili* were recovered. Basti Ram was arrested on 08.12.1998. During the investigation, it was found that Basti Ram was juvenile and as such his case was separated and he was later tried by the Juvenile Justice Court. As regards Deep Chand @ Deepa and Sukhbir Singh, challan was filed after completion of the investigation and the case was later committed to be tried by the Sessions Court, Sonapat. In order to substantiate the charge of murder, the

prosecution examined fourteen witnesses and tendered some documents. Randhir Singh and Surender Singh, eye-witnesses to the occurrence, were examined as PW-5 and PW-6 respectively, while Dr. G.P. Aggarwal was examined as PW-12. Dr. Arun Garg, who conducted the *post mortem* on the dead body of Roop Chand at about 3.00 p.m. on 04.12.1998, found the following *ante mortem* injuries on the person of the deceased:

- “1. A stab wound with clean cut margins 2.5 x 1 cms on the left side of face, 3 cm lateral to the left angle of mouth with bleeding. Fragments of bone were visible.
2. A stab wound with clean cut margins 4 x 1 cms on the left side of face with bleeding and exposed bone fragments.
3. Incised wound 7 x 1.5 cms on the left side of face crossing the left ear. The left ear was cut deeply with bones exposed, bleeding was present.
4. There was a swelling 5 x 3 cms over the right side of face with crepitus felt.
5. There was swelling and deformity of nose 2 x 1 cms with crepitus present.
6. A lacerated wound 2.5 x 1 cms on the scalp in the left parietal region near the midline with bone exposed and fragments felt. Bleeding was present.
7. The left eye was black with subconjunctival hemorrhage on the left eye.

8. An incised wound 6 x 2 cms on the posterior lateral side of the forearm with bleeding. Bones and muscles were exposed. There was fracture of both bones of forearms with haematoma.

9. Incised wound 4 x 2 cms on the left forearm, 3 cms above injury No.8 with bleeding and bones exposed.

10. A bruise reddish in colour 8 x 2 cms in the form of a lathi mark on the lateral side of the upper part of upper thigh with infiltration of blood.

On dissection of scalp and face there were multiple fractures of left maxilla, zygomatic multiple fractures of mandible and right maxilla. There was infiltration of blood all over. There was fracture of nasal bone with infiltration of blood around.

On dissection of scalp there was haematoma over the scalp with fracture of the parietal bone. On removing the vault, there was subdural as well as extra dural haematoma in this region. On removing the brain there was blood in the anterior and middle cranial fossae. The membrane and brain were lacerated in the left parietal area.

Cause of death was due to shock and haemorrhage and injuries were found to be ante mortem in nature and were sufficient to cause death in ordinary course of nature. Probable time that elapsed between injuries and death was within one to two hours."

5. The defence version of the accused was that Randhir Singh wanted to grab the property of the deceased, that he was compelling the deceased to transfer the same in the name of prosecution witnesses for the last two to three months and

that said Randhir Singh had filed a suit for transfer of the land of the deceased in his name.

6. The Trial Court after considering the evidence on record, found the eye-witness account through the testimonies of PW-5 Randhir Singh and PW-6 Surender Singh to be cogent and reliable. It was further found that the FIR in question was registered soon after the incident. The injured Roop Chand was brought to Aggarwal Hospital by Randhir Singh soon after the incident and it was Dr. Aggarwal (PW-12) who had, in fact, sent the intimation or *ruqa* to the Police. Accepting the case of the prosecution, the Trial Court on 20.10.2010 convicted Deep Chand @ Deepa and Sukhbir Singh for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code and sentenced them to suffer life imprisonment. The decision of the Trial Court was affirmed by the High Court by dismissing the appeal preferred by the Accused-Appellants. This Court, after granting special leave to appeal against the judgment of the High Court, was later pleased to release both the appellants on bail *vide* order dated 11.04.2011.

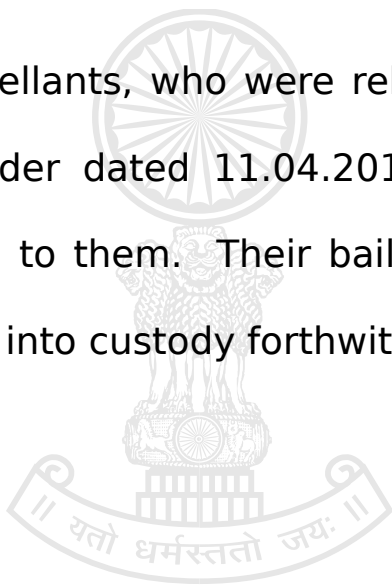
7. Mr. Rishi Malhotra, learned Advocate appearing for the appellants, submitted that the appellants had been falsely

implicated to grab the property of the deceased. It was submitted that PW-5 Randhir Singh and PW-6 Surender Singh had done nothing to apprehend the assaulting accused and that their presence was doubtful. It was further submitted that the trial of Basti Ram which stood segregated and was conducted by the Juvenile Justice Court, had resulted in clean acquittal of Basti Ram, which would also reflect on the falsity in the case of the prosecution. Mrs. Vivekta Singh, learned Advocate appearing for the State, supported the view which weighed with both the courts below and submitted that the eye-witness account was completely truthful and reliable.

8. We have gone through the record and considered the submissions of the counsel. It must be noted that the judgment of the Trial Court in the instant case was passed on 20.10.2000, while the judgment acquitting juvenile Basti Ram was passed on 23.04.2004. The acquittal was based on the assertion by Randhir Singh, who was examined as PW-1 in that trial that Basti Ram was not involved and that the deceased was assaulted by Deep Chand @ Deepa and Sukhbir Singh. Thus, the judgment in the case of Basti Ram would be of no avail to the appellants herein. The eye-witness account in the

present case is truthful and has been accepted by both the courts below. In the circumstances, we do not find anything on record to take a view different from the one which weighed with the courts below. We, therefore, affirm the judgment and order of conviction and sentence as recorded against the present appellants and dismiss the instant appeal.

9. The appellants, who were released on bail pursuant to this Court's order dated 11.04.2011, shall serve out the sentence awarded to them. Their bail bonds stand cancelled and they be taken into custody forthwith.



.....J.
(Dipak Misra)

JUDGMENT

.....J.
(Uday Umesh Lalit)

New Delhi,
March 23, 2015.

ITEM NO.1F

COURT NO.12

SECTION IIB

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 1265/2009

DEEPA @ DEEP CHAND & ANR.

Appellant(s)

VERSUS

STATE OF HARYANA

Respondent(s)

Date : 23/03/2015 This appeal was called on for pronouncement of judgment today.

For Appellant(s) Mr. Rishi Malhotra, Adv.
 Mr. B. Veeraswamy Raju, Adv.

For Respondent(s) Mrs. Vivekta Singh, Adv.
 Mr. Kamal Mohan Gupta, Adv.

Hon'ble Mr. Justice Uday Umesh Lalit pronounced the non-reportable judgment of the Bench comprising Hon'ble Mr. Justice Dipak Misra and His Lordship.

The appeal is dismissed. The appellants, who were released on bail pursuant to this Court's order dated 11.04.2011, shall serve out the sentence awarded to them. Their bail bonds stand cancelled and they be taken into custody forthwith in terms of the signed non-reportable judgment.

(R.NATARAJAN)
Court Master

(SNEH LATA SHARMA)
Court Master

(Signed non-reportable judgment is placed on the file)