

PETITIONER:
PRITAM SINGH AND OTHERS

Vs.

RESPONDENT:
STATE OF PUNJAB

DATE OF JUDGMENT 06/01/1993

BENCH:
SAWANT, P.B.
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SAWANT, P.B.
MOHAN, S. (J)

CITATION:
1993 AIR 2604 1994 SCC Supl. (1) 532

ACT:

HEADNOTE:

JUDGMENT:
ORDER

1. In this case there were six accused before the trial court arraigned for the offences under Section 302 read with Section 149 and under Sections 324, 325 and 120-B of IPC. The trial court acquitted all the accused of all the offences. The trial court held that the prosecution had failed to prove the charges beyond reasonable doubt. Against the acquittal, the State preferred an appeal. The High Court came to the conclusion that the finding recorded by the trial court was unreasonable and held that the offence under Section 304 Part II read with Section 149 for the death of victim-Kishore Chand and the offence under Sections 324 and 325 read with Section 149 for causing injuries to witness Virender Kumar (PW 7) were proved against the appellants. The High Court, however, held that the offence of conspiracy was not proved. Having come to the said conclusion, the High Court accordingly convicted and sentenced the appellants to undergo rigorous imprisonment for 7 years and to pay a fine of Rs 500 each for the conviction under Section 304 Part II and to undergo one year's rigorous imprisonment each for the offences under Sections 324 and 325 read with Section 149 of IPC. The sentences were directed to run concurrently. As regards, the original accused 5, he was 19 years of age at the time of the incident. He was also the first offender and hence he was given the benefit of the probation under the Probation of Offenders Act, 1958.

2. Mr Kohli, learned counsel appearing for the appellants, challenges the finding of conviction on the ground that the prosecution had failed to establish the offence against the accused beyond reasonable doubt and, in particular, the prosecution had failed to establish that a particular accused had inflicted a particular injury both on the deceased-Kishore Chand as well as on the witness Virender Kumar (PW 7). His second contention is that it was not established that the death of the deceased was on account of

the injuries in question.

3.As regards the first contention, we are satisfied that the court, after taking into consideration the eyewitness account as well as the two dying declarations, has come to the right conclusion that it was the accused who were responsible for the attack both on the deceased-Kishore Chand and the injured witness Virender Kumar in the manner alleged by the prosecution. According to us, therefore, no interference is called for with the said finding.

4.As regards the second contention, Mr Kohli relied on the fact that the incident took place on April 11, 1977, and Kishore Chand died about a fortnight thereafter on April 26, 1977. He further relied on the fact that the Doctor, Mr Pramod Gill (PW 2) who performed the postmortem examination, did not give his opinion with regard to the exact cause of the death at the time of the said examination. On the other hand, after performing the postmortem examination, he sent the kidneys of the deceased to the pathologist (PW 1) on the same day.

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The pathologist gave his report on May 12, 1977 and thereafter on May 28, 1977, Dr Gill gave his opinion based on the said report, that the death was on account of the short supply of blood to the kidneys as a consequence of the multiple injuries which the deceased had received. Shri Kohli referred us in this connection to the evidence of PW 1 pathologist where the pathologist has stated that the short supply of blood to the kidneys can be on account of various reasons including the injuries in question. The pathologist has also stated that the said cause of death can be detected only within 3 days of the death. Since though the postmortem was conducted within 3 days of the death, the report was submitted only on May 12, 1977, according to Mr Kohli, the report given by the pathologist and the opinion of Dr Gill based on the said report has to be discarded. He also stressed that the pathologist had not mentioned in the report, the grounds on which he had come to the conclusion that, in the present case, there was a short supply of blood to the kidneys.

5.We have carefully considered the evidence both of the pathologist (PW 1) and of Dr Gill (PW 2) who performed the postmortem examination. The record shows that the deceased-Kishore Chand had received as many as 13 injuries on his person of which five were serious according to Dr Gill. The postmortem report also shows that the wounds in question had developed septic. It is not in dispute that Kishore Chand died after 15 days as a consequence of the said injuries. The only question to be considered in the present case, on the contention of Mr Kohli, is whether these complications had resulted in a short supply of blood to the kidneys which was the proximate cause of death. The pathologist while stating that the short supply of blood to the kidneys can be on various accounts, has also stated that the multiple injuries received by the deceased could also be the cause of such short supply. The prosecution is not required to exhaust all causes that may lead to a disease or ailment. All that prosecution had to establish in the present case was whether the multiple injuries received by the deceased would have resulted in the short supply of blood to the kidneys which was the immediate cause of the death of the victim. We are satisfied that the opinions given by the pathologist and by Dr Gill, establish the fact that the short supply of blood to the kidneys in the present case was on account of the multiple injuries received by the victim. We, therefore, find nothing wrong in the conclusion arrived

at by the High Court. Hence, we sustain both the convictions as well as the sentences of the appellants, and dismiss the appeal.

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JUDIS