

PETITIONER:
STATE OF BIHAR

Vs.

RESPONDENT:
PASHUPATI SINGH & ANR. & VICE VERSA

DATE OF JUDGMENT 24/09/1973

BENCH:
ALAGIRISWAMI, A.
BENCH:
ALAGIRISWAMI, A.
KHANNA, HANS RAJ

CITATION:
1973 AIR 2699 1974 SCR (1) 742
1974 SCC (3) 376
CITATOR INFO :
R 1974 SC 799 (15)
F 1974 SC1039 (6,12)
E&D 1989 SC1335 (60

three accused caused one injury each on each of the deceased. As the injury caused by the weapons in the hands of the two accused were such as were enough to cause death, the two accused were equally guilty of murder. The fact that they could not have started with the intention of committing murder but only to commit robbery was not relevant. The injuries were sufficient in the ordinary course of nature to cause death and, therefore, the accused would be guilty of murder. [745 G-B]

Considering the fact that there had been a long interval between the date of the offence and dismissal of the appeal and the mental agony undergone by the accused, the ends of justice would be met if sentence of life imprisonment was award.

[746B]

JUDGMENT:

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal Nos. 53 and 54 of 1970.

weapons in their hands and she also fell down. Mohan Lal who tried to intervene was assaulted with a Gupti by Pashupati Singh and relieved of his wrist watch and rupees fifty or sixty, which he had. Pushpa Devi handed over her ornaments. The miscreants thereafter pulled the chain and got out of the train. When the train stopped, Fireman Abdul Aziz (P.W.8) came to the compartment and found Pushpa crying and Ram Prasad Mandal and Rukmini Devi lying injured. The Guard (P.W.10) also came, there. At the next railway station Sabour the Assistant Station Master (P.W.5) advised them to go to Bhagalpur as there would be delay in getting medical aid at Sabour. He also informed Bhagalpur railway station. The train reached Bhagalpur at about 1.15 A.M. on 7-4-1965. P.W.10 handed over a written memo, Ext.2, to the Officer-in-charge Railway Police, on the basis of which the first information report was drawn up by P.W.12 at about 1.45 A.M. By this time Ram Prasad Mandal was dead and Rukmini Devi was in a serious condition. All of them were sent to the hospital where Rukmini Devi died at 6 A.M. The-appellant Sutali Rai surrendered on the 10th of May, 1965 while P

holdalls and of the impossibility of Pushpa Devi having sat on Mohan Lal's holdall. There can be no doubt that Mohan Lal was present in the compartment at the time of the occurrence. It was not even put to Pushpa Devi in her cross-examination that Mohan Lal was not present. Nor was such a suggestion put to Mohan Lal. We consider that the evidence clearly establishes that it was the two appellants and the absconding accused who were responsible for the robbery and the murders committed on the train.

We do not think it necessary to refer at length to all the evidence 'in this case or all the points that were raised in the course of the arguments as we do not consider that they in any way weaken the findings of the courts below on the central point about -the robbery and the murders and this Court does not normally re-appraise the evidence except in cases of gross miscarriage of justice.

74 5

We now come to the appeal filed by the State of Bihar against the acquittal of the two appellants of the charge of murder- We are of opinion that the conclusion of

were enough to cause death the two appellants are equally guilty of murder.

746

The fact that they could not have started out with the intention of committing murder but only with the intention of committing robbery is neither here nor there. If they have caused injuries which were sufficient in the ordinary course of nature to cause death there can be no doubt that they would be guilty of murder. We would, therefore, hold differing from the learned Judges of the High Court, that both the accused are guilty of the offence of murder. Considering the fact, however, that there has been a long interval between the date of the offence and now and the appellants having been under a sentence of death till they were acquitted by the High Court they would have undergone a period of mental agony, we would consider that the ends of justice would be met in the circumstances of this case if a sentence of life imprisonment is awarded to the two appellants. The appeal by the State is allowed to this extent and the appeal filed by the accused is dismissed.

P.B.R.

Cr. Appeal 53 of 1970 allowed.