

Ranjeet Singh and ors. Vs. State

Ranjeet Singh and ors. Vs. State

SooperKanoon Citation : sooperkanoon.com/488705

Court : Allahabad

Decided On : Feb-10-1998

Reported in : 1998CriLJ4145

Judge : S.K. Phaujdar and ;N.S. Gupta, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 34, 109 and 302

Appeal No. : Crl. Appeal No. 2123 of 1988

Appellant : Ranjeet Singh and ors.

Respondent : State

Advocate for Def. : K.C. Saxena, A.G.A.

Advocate for Pet/Ap. : M.S. Negi, ;P.N. Mishra, ;Y.K. Shukla and ;Apul Mishra, Advs.

Disposition : Appeal allowed

Judgement :

N.S. Gupta, J.

1. Accused appellants Ranjeet Singh, Dalip Singh and Bharat Singh, who are real brother and are resident of village Sem, Patwari Circle Siresain Tahsil Karan Prayag, District Chanioli, were convicted vide order dated 17-9-1988 by Sri O.N.

Asthana, the then Sessions Judge, Chamoli under Sections 302/34, I.P.C. regarding murder of Khushal Singh and were sentenced to imprisonment of life, have come up in appeal before his Court.

2. According to the prosecution, on 20-8-1987, at about 8.45 p.m. Bachchi Ram PW 6, who was then working as Gram Pradhan, had called certain villagers including Darwan Singh PW 1, Rajendra Singh son of Udai Singh, Tota Ram PW 4 etc. and informed that the deceased Kushhal Singh was murdered by the accused appellants Ranjeet Singh, Dalip Singh and Bharat Singh. A lot of blood was following in the court-yard of this Pradhan where the deceased was lying dead. On the asking of Gram Pradhan, Darban Singh PW 1, Rajendra Singh, son of Udai Singh, tota Ram PW 4 and Chandra Ballabh immediately went to village Kasuwa, head quarters of village patwari who is hills exercise powers of police officer and lodged written report Ex. Ka-5 at about 00.30 a.m. on 21-8-1987 with the Naib Tahsildar who was camping in that village at that time. Accordingly the village patwari registered the case crime No. 1 of 1987 and started investigation into the matter.

3. Sri Gopal Dutt Patwari PW 9 who was then working as patwari of Sirsain and whose head quarters lay at a distance of about 6 Kms. From the scene of occurrence took up the investigation of the case on 21-8-1987. He rushed to the scene of occurrence and prepared inquest report in respect of the dead body of the deceased and sent the same for post mortem examination. He prepared a site plan Ex.Ka-8 of the scene of occurrence and after preparing the necessary papers sent the dead body of the deceased for post mortem examination. He recovered the blood stained and simple earth from the scene of occurrence and prepared the recovery memos Ex. Ka-10 and 11 about the same. He got Bushirt, Katcha and Dhoti removed from the dead body of the deceased and sealed them in a separate cover. He recovered blood stained knife on the pointing out of the accused Bharat Singh from the hitters house. After needful investigation into the matter, he filed a charge sheet against the accused appellants and their mother Smt. Kusberi Devi. After committal of the case to the Court of Session, the learned Sessions Judge charged the accused appellants under Sections 302/34, I.P.C. He also charged their mother Smt. Kusberi Devi under Sections 302/109, I.P.C. The accused

appellants and their mother pleaded not guilty. After proper trial into the matter, the learned trial Judge acquitted Smt. Kusberi Devi. He convicted and sentenced the accused appellants as aforesaid, hence this appeal before this Court.

4. At the trial, the prosecution in support of its case had examined as many as 9 witnesses, PW 1 Darban Singh, PW 2 Rajendra Singh, PW 3 Chet Ram, PW 4 Tola ram and PW 6, Bachchi Ram were witnesses of fact. Dr. R.N. Singh PW 5 was medical officer, who conducted autopsy on the dead body of the deceased on 22-8-1987 at 1 p.m. and found that the deceased was aged about 34 years; about two days had passed of his death; his body was average, built and rigor mortis had passed on from half of the upper and lower limbs. The doctor found the following ante mortem injuries :-

1. 2 cm x 1 cm x 0.5 cm punctured wound 2 cm below the nipple of the left side chest.
2. Another punctured wound on left side chest of the size 2.5 cm x 1 cm x 0.5, 3 cm below the nipple of left side chest.
3. A punctured wound 1 cm x 0.5 cm x 0.5 cm on the left side forehead 4 cm above the eye.
4. Punctured wound 1 cm x 0.5 cm situate 5 cm below the umbelicus (Nabhi) on left side abdomen.

On internal examination, the doctor found that the pleura was lacerated. The blood was present in left cavity. Stomach contained half digested food. The small intestine contained liquid faecal matter. The doctor found that the deceased had died due to shock and haemorrhage, which resulted from the aforesaid injuries, PW 7 Sarveshwar Dutt was the Naib Tahsildar to whom the written report Ex.Ka-5 was made over on 21-8-1987 at about 12.30 p.m. in the night, on which he had passed necessary orders directing supervisor Kanungo to investigate into the matter. PW 8 Sher Singh was the father of the deceased who stated that he had three sons, namely, Chandra Singh, Raghubir Singh and Kushal Singh deceased. They all used to work out side for the last 12-14 years. He stated that some time in

the month of January and Feb. 1987, Kushal Singh had come. He had informed him that the accused appellants Ranjeet Singh and Dalip Singh bore enmity with him on the point of land. PW 9 Goplal Dull was the investigating officer.

5. We have heard Sri P.N. Misra, learned Senior counsel for the appellants and Sri K..C. Saxena, learned A.G. A., considered their submissions and gone through the evidence on record of the case.

6. it: is clear from the medical evidence, of Dr. R.N. Singh, that number of punctured wounds were found on the person of the deceased as ante mortem injuries and that the deceased should have died because of the said injuries.

7. Now the question which arises for our determination is to see as to whether the accused respondents were responsible for committing the murder of the deceased..

8. Sri P.N. Misra, learned senior counsel for the appellants has vehemently argued before us that the entire case of the prosecution is a cooked up one and the learned court below grossly erred in convicting and sentencing the accused appellants. There appears to be force in the contention raised by the learned counsel for the appellants.

9. A perusal of the record of the case reveals that the first information report about the occurrence was lodged by Darban Singh PW 1. Darban Singh PW 1 was not mentioned as eye witness of the occurrence. Curiously enough Rajendra Singh and Totaram were also not mentioned as eye witnesses in the first information report. For the sake of ready reference, the first information report is verbatim reproduced as under :

Isok esa]

Jhekuuk;c rglhynkj] rglhynkj egksn;

gkydSEi dklqok

egksn;]

lfou;fuosnu bl izdkj gS fd xzke lSe esa vkt yxHkx ikSus ukS cts jkr dks iz/kku xzkelHkk cPNh jke us o vU; xkookyks us dkQh gYyk fd;k] ge cPphjke th ds x, rksiz/kku us crk;k fd tgkW ij [kq'kgky flag iqq= 'ksj flag dks j.kthr flag] nyhiflag] Hkjr flag iq= nso flag Hk.MkjH xzke lse okyks us tku ls [kRe dj fn;k gS AeSus Hkh ns[kk fd pkSds esa dkQh jDr cg jgk gS A [kq'kgky cstku iMk gS A lHkhyksxksa us ns[kk fd [kq'kgky flag ij dksbZ tku ugha gS A iz/kku th us eqt njokuflag iq= izse flag] jktsUnz flag iqq= mn;flag] rkSrkjke iq= Jh ?ku';ke pUnzoYyHkiq= ihrkEcjnRr dks dgk fd rqe rqjUr dklqok tkvks o bl ?kVuk dh lwpuk lHkhiz'kklu vf/kdkfj;ksa dks ns nks] vr% ge lwpuk nsus vk, gaS A ge vkidksa fyf[krizLrqr dj jgs gS vr% mfpr dk;Zokgh djus dh ik dh tk; A lkj xkao Hk;HkhrG A iVokjh th fljhZl.k pkSdh ij ugha gSa A g- njoku flag jkor iq= Jh izseflagjkor xzke lSe 21-8-87 le; 12&15 jkf= A g- jktsUnz flag iq= mn; flag] g-rksrkjke iq= ?ku';ke] g- pUnzoYyHk iq= Jh ihrkEcjnRr njoku flag udy vkns'k-&

lq-dk- vkfn cnzh ds dkSlyufldrqjUr LFky ij tkdj vk-dk- djs g- vLi'V uk-rg- dk 21-8-87] 12&30 , - ,eudy vkns'k iVokjh dkSlqok A i;k izFke lwpuk ntZdj mfpr dk;Zokgh gsrq iVokjhfljhZl dks Hksts] g- vLi'V lq-dk- v dSEi dkSlqok 21-8-87 1 cts jkf=

uksV& eS iVokjh dkSlqok rkfgndjrk gWw fd izFke lwpuk fjiks VZ 'kCn o 'kCn rgjhj oknh dh vafdr dh xbZ] ,d ifroknh dks nh xbZ o izkflr ds gLrk{kj fy, x, A ekeys es eS rQrh fl'khls.k)kj dhthk;sxh

g- viBuh;

iVokjh dklqok] 21&8&87-

10. A perusal of the first information report reveals that this first information report was lodged by Darban Singh at the instance of Gram Pradhan Bachchi Ram PW 6. Bachchi Ram PW 6 came into witness box before the Court below. He stated that the accused appellants Ranjeet Singh, Dalip Singh and Bharat Singh were real brothers and Smt. Kusberi Devi, (accused since acquitted by the trial court) was their mother. He stated that the deceased Kushhal Singh was working in P.A.C. The accused appellants Ranjeet Singh and Dalip Singh were also serving at Bareilly on 21-8-1987. A Doli of Nanda Devi was to reach in his village had to stay there. He stated that on 20-8-1987 all the villagers had assembled in the

Chauk of Totaram PW 4. They prepared food and pattals etc. there. He stated that at about 8.30 p.m. he saw Ranjeet Singh, Dalip Singh and younger son of Ranjeet Singh going to their houses. Ranjeet Singh was playing a tape recorder. Kushhal Singh deceased had come in the village on 17th. He was also busy in preparing pattals in the court yard of Totaram on the night of the occurrence. He stated that accused Dalip Singh came into the courtyard of Totaram. He asked Kushal Singh '(Beta Idhar Aao, bat suno)' and thereupon Kushal Singh went with Dalip Singh towards the house of Ranjeet Singh. After some time, Rajendra Singh came crying from down stairs to the court yard of Tola Ram and informed him that Kushhal Singh was murdered by Ranjeet Singh, Dalip and Bharat Singh. He then stated that he saw Ranjeet Singh, Dalip Singh and Bharat Singh. Bharat Singh was armed with a knife. His mother Kusber Devi was standing behind her sons. All these three accused appellants dragged the deceased and threw him into his court yard. After throwing the deceased into his court yard, Ranjeet Singh ran away towards Karan Prayag. Dalip Singh and Bharat Singh went to their houses. Their mother locked the house from outside. He stated that he asked the villagers to look after the house of the accused persons. He went near the dead body of the deceased and asked Darban Singh PW 1 and Rajendra Singh to go to Kuswa where the officers had assembled in connection with the fair and to inform them about this incident. He stated that there were injuries on the head, chest and abdomen of the deceased, which were bleeding. He stated that the accused Ranjeet Singh had sent a complaint through his commandar to the District Magistrate that the land of his family was encroached upon by Sher Singh, father of the deceased Khushal Singh. The village patwari came to measure the land. He stated that Sher Singh was in possession of 5-7 canals of land belonging to Ranjeet Singh for the last about 7-8 years.

11. During the course of his cross-examination he stated that when he had asked Darban Singh and Rajendra Singh to go to Kuswa, a number of villagers had collected in his court yard and that on his asking Darban Singh and Rajendra Singh along with Chandra Ballabh went to Kuswa but no report in writing was given by this witness.

12. A suggestion was put forward on behalf of the accused appellants to this witness that there had been a quarrel in between the deceased and the son of this witness on the night of the occurrence in connection with which his son as also his relations Mansaram, Bhagwati, Kalyan and Dinesh had committed the murder of the deceased.

13. The circumstance that the dead body of the deceased was found lying in the court yard of this witness, the circumstance that there was no trail of blood from the place from where the dead body of the deceased was brought to court yard of this witness and the circumstance that this witness being a Gram Pradhan never wrote any report in his hand at the spot but directed the other villagers like Darban Singh PW 1 Rajendra Singh son of Udai Singh and Tota Ram son of Ghanshyam and Chandra Ballabh to immediately go to Kuswa and to lodge a report about this matter with the administrative officers who were camping there fully go to show that true version of the occurrence and the circumstances in which the deceased was done it death was not conveyed to the authorities by means of the first information report Ex. Ka-5. The circumstance that there was no mention about the name of the mother of the accused appellants, namely, Kusberi Devi in the arrey of the accused persons in the first information report fully go to show the concoction made by the investigating prosecuting agency during the course of investigation and trial of the matter.

14. It would suffice to state here that the names of the eye witnesses of the occurrence were not mentioned in the first information report renders the evidence of Darban Singh PW 1, Rajendra Singh PW 2 and Chet Singh PW 3 incredible.

15. It is important to note here that whereas the first information report was signed by one Rajendra Singh son of Udai Singh, a witness by the name of Rajendra Singh son of Ajab Singh had come to give ocular evidence in the case before the court below.

16. it may be mentioned here that according to the contention of the prosecution, the murder of the deceased had taken place at about 8 and 8.30 p.m. but no source of light was mentioned either in the first information report or in the statement of the witnesses who came up before the Court below to give eye

witness account of the occurrence. The incident having taken place in the village, it is not possible for us to draw any presumption about (the existence of light. Darban Singh PW 1 and Rajendra Singh PW 2 deposing themselves to be eye witnesses of the occurrence had gone to the extent of stating that. Ranjeet Singh and Dalip Singh had caught hold of the deceased and Bharat Singh assaulted him by means of knife. Although the prosecution claimed to have recovered blood stained knife on the pointing out of the accused appellant Bharat Singh, but the said knife was never for examination to the chemical examiner and there was no report to show that the said knife had contained human blood. PW 8 Sher Singh is the father of the deceased. He stated that the deceased had informed him that when he came on leave in the month of January and February, 1987, the accused appellants Ranjeet Singh and Dalip Singh bore enmity with him. He, however, pacified his son saying that he did not feel any such thing. He stated that when on 11-5-1987, the village patwari came to measure his land, then he came to know that Ranjeet Singh and his family members wanted to raise a dispute on the point of land. He stated that on enquiry the village patwari found his possession on the land. He stated that at about 9 p.m. on 20-8-1987 when he was present at his house, he came to know that Kushal Singh was killed by Ranjeet Singh, Dalip Singh and Bharat Singh and when hearing this information he came out he found that his son was lying dead in pool of blood in the court yard of Gram Pradhan. He stated that Totaram and other witnesses including Gram Pradhan had informed him that his son has been killed by Ranjeet Singh and his brothers. It would thus be seen that Totaram, Darban Singh and Rajendra Singh were all persons of Gram Pradhan Bachchi Ram. They therefore, put forward a tainted version of the occurrence before the Court below as was given by Gram Pradhan Bachchi Ram.

17. Under the circumstances, we find that the prosecution failed to bring home the guilt of the accused appellants beyond any shadow of doubt. The appeal, therefore, deserves to be allowed.

18. In the result, the appeal is allowed. The conviction and sentence recorded against the appellants by the Court below are set aside. They are on bail. They need no surrender. Their bail bonds are cancelled and sureties discharged.

