

Amarjit Singh Sohan Singh Vs. the State

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Court : Punjab and Haryana

Decided On : Nov-17-1969

Reported in : AIR1970P& H279; 1970CriLJ835

Judge : Ranjit Singh Sarkaria and; S.C. Mital, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 300 and 304

Appeal No. : Criminal Appeal No. 134 of 1967

Appellant : Amarjit Singh Sohan Singh

Respondent : The State

Advocate for Def. : M.P. Singh Gill, Asst. Adv. General

Advocate for Pet/Ap. : Bahadur Singh, Adv.

Judgement :

R.S. Sarkaria, J.

1. This is an appeal by Amarjit Singh, who has been convicted for murder of his father, Sohan Singh, by the learned Additional Sessions Judge, Jullundur, and sentenced to imprisonment for life.

2. The facts of the prosecution case, as they emerge from the record, are as follows:--

Sohan Singh deceased was out of employment. He was addicted to drinking. He was living in the same house along with his son, Amarjit Singh appellant, and his wife, Udham Kaur, at Dalewal. Amariit Singh was, however, employed as a worker in the Workshop of one Shankar Singh at Goraya.

3. On April 23, 1966, at about noon, the deceased pressed the appellant to give him some money. The appellant declined, saying that he had no money to give to the deceased to be wasted in drinking. The deceased hurled a foul abuse, to the effect that the accused should raise money by getting his mother prostituted and then provide the same to the deceased. This the deceased said in the presence of his wife, Udham Kaur, D.W. 1, who was in the house cutting some vegetables. On hearing this foul abuse, the appellant immediately gave three blows with the knife, Exhibit P-I, to the deceased on the left upper arm, the left side of the back and the right side of the chest. Injury No. 3 had penetrated the right lung. On receiving these blows, Sohan Singh injured ran out. The witnesses, namely, Udham Kaur, wife of the deceased, Pargan Singh, brother of the deceased, and Pakhar Singh Sarpanch caught hold of the accused. Pakhar Singh snatched the bloodstained knife, Exhibit P-I, from Amarjit Singh accused. Sohan Singh after going out a few paces, dropped dead. Leaving Bakhsha Singh, P.W. 3, to guard the dead body, and Amarjit Singh appellant in the custody of Pakhar Singh Sarpanch, P.W. 2, Pargan Singh, went to Police Station, Phillaur. 6 miles away, and lodged the First Information Report, Exhibit P-D, at 1 P.M. on the same day. After recording this report, Sub-Inspector Lachhman Singh reached the spot, took over the custody of the accused and the bloodstained knife. Exhibit P-I.

4. After completing the investigation, the Police challaned Amarjit Singh in the Court of the Judicial Magistrate First Class, who, after a preliminary enquiry, committed him for trial to the Court of Session, with the aforesaid result.

5. Pargan Singh, P.W., was examined by the Committing Magistrate. He, however, died before the trial. His statement, therefore, was duly transferred to the Sessions record under Section 33 of the Evidence Act. The prosecution also examined Pakhar Singh, P.W. 2. another eye-witness, at the trial. Pargan Singh and Pakhar Singh, P.Ws., narrated more or less, the same story, in the witness-box, which has

been set out at the commencement of this judgment.

6. At the trial, Amariit Singh accused, examined under Section 342, Criminal Procedure Code, admitted that he had caused the injuries with the knife. Exhibit P-1, to his father, but set up these two pictures:

(a) That the deceased was about to strike him with knife, and that thereupon he snatched that knife from the deceased and struck the latter with it in the exercise of his right of private defence.

(b) That it was the filthy abuse hurled by the deceased to the effect that 'the accused should provide the former with money at any cost even if it is to be raised by prostitution of the accused's mother', that gave him grave and sudden provocation, as a result of which, the accused whilst deprived of the power of self-control, gave blows to the deceased with a knife with which the accused's mother was cutting vegetables nearby.

7. The accused examined Ms mother, Udham Kaur, D.W. 1, who has, in her evidence, fully supported both the pleas set up by her son. The learned trial Judge has disbelieved Udham Kaur with regard to the plea of self-defence; and, we think, rightly. The facts concerning this plea were never put to Pargan Singh, P.W. The plea of self-defence therefore. Is an after-thought. Udham Kaur was in a very unfortunate situation. She had lost her husband. She did not want to lose her bread-winner, son, and thus be left beggared and resourceless on the scrap-heap of society.

8. But Udham Kaur's testimony could not be -- and has not been -- disbelieved with regard to the misbehaviour of the deceased and the filthy abuse uttered by the deceased. Considering the plea (b), the learned trial Judge observed:--

'Though the deceased was at fault to some extent in abusing his son, but these circumstances were not such which in a village could give grave and sudden provocation to the accused. In villages abuses in the names of mothers and sisters are hurled by people without realising what they mean. If a father who was head of the family used abusive language, the son was bound to tolerate. There was no

occasion for grave and sudden provocation. If the accused had not been the son of the deceased, then the learned counsel could say that there were no reasons, why he should have tolerated the abuses of another person, but in this case even this stand cannot be taken.'

It will be seen that the trial Court has not rejected that version of the accused and his mother which constitutes the factual basis of plea (b). Indeed, sufficient foundation of this plea existed even in the F.I.R. and the evidence of Pargan Singh, P.W. The trial Judge has only held that these circumstances could not constitute grave and sudden provocation for the purpose of Exception I to Section 300, Penal Code because-

(i) in villages abuses in the names of mothers and sisters are hurled by people without realising what they mean; and (ii) the son was bound to tolerate the abusive language used by the father, who was the head of the family.

9. The learned counsel of the State before us, also, has supporting the above reasoning, argued that among villagers filthy abuses are commonly used as meaningless expletives, and therefore can never, in a case concerning them, amount to grave and sudden provocation within the said Exception. We are unable to agree with this reasoning. Firstly, no abstract generalisation can be made that foul abuse in the case of villagers, between a father and son, can never amount to grave and sudden provocation. It is a matter of common knowledge that Punjab villagers are very sensitive in such matters. A foul abuse with reference to the mother or sister, without any other motive, often provokes the villager abused to violent crime, including murder. Under the Indian Penal Code, even foul words may amount to grave and sudden provocation. The authors of the Code have observed:

'It is an indisputable fact, that gross insults by word or gesture have as great a tendency to move many persons to violent passion as dangerous or painful bodily injuries; nor does it appear to us that passion excited by insult is entitled to less indulgence than passion excited by pain. On the contrary the circumstance that a man resents an insult more than a wound is any thing but a proof that he is a man of peculiarly bad heart.'

10. Secondly, this was not a case of simple foul abuse given by a father to upbraid his erring son. On the contrary this was a case of a profligate and alcoholic father pestering his bread-earning son for money to be wasted in immoral and dissolute pursuits by the former. The past conduct of the non-earning father in coming home daily drunk and also stuffed with poppy heads, was already a standing and continuous source of provocation to the son whose meagre earnings were hardly sufficient to meet the barest needs of the family. The resentment that was building up in the mind of the son as a reaction to the continuous provocative conduct of the father spread over the past one month or so, had reached the breaking point shortly before the occurrence when the drunken father set upon the son with a torrent of horrible oaths to extort money for his immoral habits. The abuse that the son must provide him with money, no matter if he had to get his mother prostituted for raising it, was the last straw--a match-stick to a charged keg of gunpowder. Any normal reasonable son in such circumstances on hearing the filthy abuse in the immediate presence and hearing of his mother, would have been inflamed to violent passion against the father.

11. If any authority is needed on the point, reference may be made to *Empress v. Khogayi*, (1878-80) ILR 2 Mad 122. It was laid down there that when it is said that the provocation must be 'sudden' it is implied that it should have all immediately preceded the homicide in point of time. A person may by repeated or continuous provocation arouse another to a state of mind when the provocation immediately preceding the act is only the last straw. This authority was approved by the Supreme Court in *Nanavati's case* AIR 1962 SC 605 wherein it was laid down that the state of mind of the accused, having regard to the earlier conduct of the deceased, may be taken into consideration in judging whether the subsequent act would be a sufficient provocation to bring the case within the Exception.

12. Thus, from whatever angle the matter may be looked at, the abuse of the foulest kind hurled by the deceased in the circumstances of this case, was grave and sudden enough to entitle the appellant to the benefit of the said Exception. Consequently, the offence committed by the appellant was one under Section 304, Part a). In the result we would partly allow this appeal, alter the appellant's conviction into one under Section 304, Part (I), Penal Code and reduce his

sentence to five years' rigorous imprisonment.

S.C. Mital, J.

13. I agree.

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