

Basant Singh Vs. State

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Court : Punjab and Haryana

Decided On : Dec-14-1951

Reported in : AIR1953P& H173

Judge : Soni, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 302 and 325

Appeal No. : Criminal Appeal No. 318 of 1951

Appellant : Basant Singh

Respondent : State

Advocate for Def. : S. Daljit Singh, Adv.-General

Advocate for Pet/Ap. : S. Labh Singh, Adv.

Judgement :

Soni, J.

1. Basant Singh has been found guilty under Section 325, Penal Code by the Sessions Judge of Gurdaspur and has been sentenced to four years' rigorous imprisonment. He has appealed.

2. The case arose in this way. The deceased Charan Das Mahasha was walking along a sugarcane field. He plucked a sugarcane and began to chew it. Thereupon

the present accused and his brother Bishna by name came upon him and asked him why he had done so. There was an altercation. Basant Singh gave him a blow or blows. Bishna is supposed not to have done anything serious. The result of this blow or blows was that Charan Das Mahasha died soon after receiving the injuries. On post mortem examination it was found that the deceased had a faint contusion 2' in circle on the left side at the lower ribs in the axillary line and two nail scratches each 1/8' long below the thyroid eminence. Sixth left rib was broken at its front end. Both the pleurae were adherent. Peritoneal cavity was full of dark coloured blood containing clots. The spleen was ruptured, the rupture measuring 2 1/2'. It was a big spleen weighing 1 lb. 10 ozs. Death, in the opinion of the doctor, was due to internal haemorrhage as a result of the rupture of the spleen which in its turn had resulted from a blow on the side of the chest. (After discussion of the medical evidence the judgment proceeds).

3. The result of the doctor's evidence is that the rupture of the spleen was not due to a fall but was due to the injury or injuries inflicted on the deceased. The accused was sent up to take his trial under Section 302, but the learned Sessions Judge convicted him under Section 325, Penal Code, and gave him four years' rigorous imprisonment. It is quite clear to me that no offence under Section 302 was made out. It was a small matter which probably is not of unusual occurrence that people going along a sugarcane field sometime pluck a sugarcane and begin to chew it. It is also not unusual that the owners of the fields do not like this. It gives rise to rows, but in this particular case the accused did more than have a simple altercation but actually inflicted two blows one of which caused the rupture of the spleen. The conviction in my opinion is justified under Section 325, Penal Code as the abnormal enlargement of the spleen of the deceased was not known to the assailant. (4) So far as the sentence is concerned, I think the sentence is rather severe. At the time when the blow was inflicted the accused did not know that the man was suffering from an enlarged spleen, and two blows were given one of which unfortunately caused the fracture of a rib. In my opinion a sentence of two years' rigorous imprisonment would be sufficient in this case. I reduce the sentence accordingly.

