

Tek Chand and ors. Vs. the State

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Court : Punjab and Haryana

Decided On : Feb-22-1963

Reported in : AIR1965P& H146; 1965CriLJ466

Judge : R.P. Khosla and; J.S. Bedi, JJ.

Acts : [Indian Penal Code. 1860](#) - Sections 147, 149, 302, 332 and 333; Indian Arms Act - Sections 19

Appeal No. : Criminal Appeal No. 398 of 1961

Appellant : Tek Chand and ors.

Respondent : The State

Judgement :

J.S. Bedi, J.

1. These appeals (Criminal Appeals Nos. 398, 399 and 400 of 1961) arise against the orders of Shri B. L. Malhotra, Additional Sessions, Judge, Gurgaon dated the 20th April, 1961, by which he convicted the nine appellants, namely Tek Chand, Dev Nath, Hakam Chand, Jagatari Lal, Deep Singh, Mulkh Raj Premi, Anup Singh, Karan Singh and Rup Chand, all residents of New Township Faridabad, District Gurgaon, under section 332/149, 333/149 and 147, Indian Penal Code, and sentenced each of them to one year's, two years' and three months ' rigorous

imprisonment under the respective counts. Mulkh Raj Premi was further convicted and sentenced to imprisonment for life under S. 302, Indian Penal Code. This appellant and Tek Chand were also convicted under S. 19(1) of the Indian Arms Act and sentenced to six months' rigorous imprisonment each. All the sentences were, however, ordered to run concurrently. Besides the nine appellants, 19 others were also convicted by the trial Judge under sections 332 and 333, read with section 149, and section 147, Indian Penal Code, but were sentenced only to the period of confinement suffered by them as under trial prisoners. Criminal Revision No. 98 of 1961 has been filed by the State against all the 28 accused for the enhancement of their sentence. All these matters will be disposed of by the judgment.

(2) The story for the prosecution as given by Shri Ram Labhaya (P.W. 39) and others briefly runs as under: The Rehabilitation Ministry, Government of India, had built quarters at Faridabad New Township, a highly industrial area near Delhi, for allotment to the displaced and other person on certain conditions. If, however, those conditions were not fulfilled and the payment and other charges were not deposited in due time the allotment in favour of the defaulter had to be cancelled and the quarter put to auction. Besides such quarters there were some plots of land also to be sold. On the 28th June 1960, eight such quarters has to be sold by auction under the supervision of P.W. S. Shri Tiwani, Assistant Settlement Officer-cum-Managing Officer, Ministry of Rehabilitation Delhi. He accordingly reached the site of auction in Neighbourhood No. 1 at 9.45 a. m. and found a crowd of about 1100 persons or even more collected there. They were raising slogans 'Sawan Singh Mardabad'.

Some of them were carrying red flags in their hands and were heard raising slogans that they would not permit the quarters to be auctioned. Ram Labhaya Station House Officer, and Moti Ram, Assistant Sub-Inspector (P.W. 33), besides some constables in uniform were present there and so was Shri Sawan Singh, Assistant Settlement Commissioner (P.W. 49). Shri Sawan Singh and other officials apprehended some trouble from the Mazdoor Ekta Committee who had issued posters some days before that opposing the above auction. Shri Sawan Singh, therefore, feeling the crowd to be in a violent mood, consulted the other

officials of the department who were there and postponed the auction of the quarters. Then Shri Tiwani along with Shri Sawan Singh besides some police officials went to Sawan Singh's office followed by a crowd of about 200 persons or so. They were heard shouting slogans 'Mazdoor Ekta Committee Zindabad' and that 'the auction of the quarters would not be permitted.' At this Shri Sawan Singh sent for five representatives of the Mazdoor Ekta Committee in order to find out their demands.

Tek Chand, Hakam Chand and Dev Nath and Karan Singh appellants were amongst them. The representatives of the Mazdoor Ekta Committee put forward certain demands which were conveyed by Shri Sawan Singh to the Ministry as a result of which it was decided that the auction of the quarters which was scheduled to take place on the 29th June, 1960 should be postponed. On 29th June Shri Tiwani along with Shri Sawan Singh and others went to Neighbourhood No. 1 where they noticed a crowd of 1000 and 1500 persons. Shri Sawan Singh announced to the crowd the order passed by the Regional Settlement Commissioner with regard to the cancellation of the auction of the quarters. It was, however, announced that the vacant plots would be put to auction in Neighbourhood No. III on that day and that the persons interested in purchasing those plots should turn up there. This announcement was made known through Shri Sushil Rattan P.W. 9. At this the crowd raised slogans of Mazdoor Ekta Committee Zindabad and that by their unity the object was achieved. The members of the crowd were then seen depressing and Shri Sawan Singh along with Shri Tiwani and others came back to Shri Sawan Singh's office.

(3) On the 29th June at about 9 a.m. Shri Ram Labhaya, Station House Officer, received a telephonic message from the office of the Assistant Settlement Commissioner Shri Sawan Singh that a mob had collected in front of his office and that the Station House Officer should reach there. Shri Ram Labhaya accordingly along with Shri Mohinder Singh and Shri Moti Ram, Assistant Sub-Inspector, besides 8 or 9 police constables reached the office at 10.30 a. m. The three police officers were armed with revolvers while the constables carried Lathis and handcuffs. On reaching there Shri Ram Labhaya found a huge crowd of about 2000 to 2500 persons collected there who were raising slogans. Shri Sawan

Singh, however, announced to the crown that the auction of the quarters had a writing to that auction of the quarters had been postponed but the mob wanted him to give a writing to that effect. This demand was not conceded and the mob was then heard raising anti-auction and anti-police slogans. Tek Chand, Rup Chand, Hakam Chand, Karam Singh, Moti Ram, Dev Nath, Hem Raj, Madan Lal and Prem Singh who were raising such slogans were known to Shri Ram Labhaya before.

After this announcement Shri Tiwani along with other officers went to Neighbourhood No. 3 for holding the auction of the vacant plots. Shri Ram Labhaya S. H. O. along with the police force mentioned above also accompanied the said officers. A tent had been pitched on one of the plots to be sold in order to provide shade for the bidders and auctioneers. Some 20 bidders were seen under the Shamiana. The auction started at about 11 a.m.. Soon after the auction started, at about 20 or 25 persons on bicycles reached there in any angry mood raising slogans of 'kill or be killed but do not permit the auction to be conducted.' They were followed by a crowd of about 2000 to 2500 persons. Shri Ram Labhaya told the members of the mob that they should behave lawfully as their demand has been cancellation of the auction if the quarters had been conceded and that they should not interfere with the sale of the plots, and instructed the mob to keep behind a drain at some distance from the Shamiana, but in spite of these instructions, Hem Raj, Madan Lal and Prem Singh, three persons out of the crowd crossed the drain and manhandled the officials of the auction-party.

Shri Ram Labhaya and other police officers arrested these three persons and sent them to the police station in a car. Tek Chand, Rup Chand and Karam Singh appellants, the leaders of the mob went on exciting the crowd and asked them to resort to violence. As a result of this the situation became tense. Apprehending danger, Shri Ram Labhaya sent Moti Ram A. S. I. to Faridabad in order to bring more help. Some members of the mob then began pelting stones towards the police party and the officials of the auction party and the officials of the auction party as a result of which the situation went out of control. Shri Tiwani along with the other officers who were holding the auction went and took refuge in a nearby house. Some of the members of the crowd followed them there and caused them injuries by brick-bats. The police party, however in order to save themselves

entered into the compound of the houses of ram Chandar and Baksh Ram including Ram Labhaya, Mohinder Singh A. S. I., Duli Chand, Shiv Kumar, Bakhtawar Singh and Harbans Sings constables.

The mob, however chased them there and started throwing stones at them as a result of which quite a number of the police officials received injuries. All the attempts made by the police to pacify the crowd failed. the mob shouted that the police official should not be allowed to escape and that they should be killed. On finding that the situation was extremely grave, Mohinder Singh A. S. I. from behind followed by another who caught him by his long hair. Yet another person from the mob who was a non-Sikh, namely Mulkh Raj Premi, snatched the revolver from Mohinder Singh and fired the same at the latter. The mob all these time kept on throwing stones Singh A. S. I. fell down. Ram Labhaya S. H. O. also then fired three shots with his revolver on the crows.

One members of the mob, however snatched his revolver and ran away while another snatched away his hoisted containing live cartridges, Still another member of the mob pulled away his wrist watch and disappeared. Shri Ram Labhaya Also received a number of injuries at the hands of the crows. He was given support by Shiv Dayal P.W. and Duli Chand constable and removed to a neighbouring house from where he was taken in a truck to Badshah Khan Hospital by Moti Ram A. S. I. who had by then arrived with help at the spot. Shri Moti Ram A. S. I. recorded the statement of Shri Ram Labhaya (Exhibit P. A. T,) at the hospital after getting a certificate from the doctor that the injured was in fit condition to make the statement. Shri Ram Labhaya in the truck, succumbed to this injuries before reaching the hospital.

(4) The investigation was taken in hand. The post-mortem examination on the dead bodies of Mohinder Singh A. S. I. and Balmokand were duly performed by Dr. Hari Singh Kanwar, Civil Surgeon, Gurgaon (P.W. 5) on the 30th June, 1960. On the body of Mohinder Singh the doctor found as many as seven injuries consisting of one gun-shot wounds, two confused wounds and some confusion marks. The cause of death was the gun-shot would which caused extensive brain laceration and fracture of the skull. On the body of Balmokand the doctor found

only one gun-shot wound. In his case the cause of death was shock and haemorrhage on account of the extensive destruction of large vital blood vessels of the neck, resulting from the bullet wound. The injury was sufficient in the ordinary course of nature to cause death.

(5) No arrest, however, took place till the 15th of July, 1960 for various reasons, the main being that the residents of Faridabad who are mainly labourers would get further infuriated by so doing Rup Chand, Tek Chand, Dev Nath, Hakam Chand Darshan Kumar, Krishan Lal, Chaman Lal, Karam Singh Gyani and Dhera Mal accused were arrested on the 15th July, Shiv Dayal, Ishar Das, Bholu Ram, Ramel Das, Basant Lal, Charan Singh and Madam Lal on the 16th July., and the remaining two accused namely Karan Singh and Moti Ram on 6th August. At the time of arrest they may have to be put in for identification. On the day of his arrest, i. e. on the 19th July, 1960, Mulkh Raj Premi was interrogated by Shri Gian Chand S. H. O. (P. W 70) upon which the former made a disclosure statement Exhibit PBG, stating that he had buried a revolver with 8 cartridges near Burji No. 5 between poles Nos. 935/7 and 935/6 close to railway line and that he could get the same recovered.

This statement was made Tyagi, Hukam Chand (P.W. 56) besides Gian Chand S. H. O. He then led the investigating party to the place and got the revolver P. 12 along with 8 cartridges (P.13 to P. 20) recovered therefrom. These were duly taken into possession vide memo Exhibit PBH. On the 27th July 1960 on interrogation Tek Chand appellant made the disclosure statement, Exhibit PBI, in the presence of Jiwan Lal Lambardar (P.W. 57) and Tej Raj (P.W. 66) tendered, besides Rup Chand A. S. I., to the effect that he had thrown one revolver in a well near the bound in village Badkhal and that he could get the same recovered. He then led the investigating party to the place and produced the revolver Exhibit P. 21 containing 4 empties in it. Besides the above-mentioned witnesses, this recovery was witnessed by Bhagat Ram Constable (P.W. 54). On the 28th July 1960 Mansa Ram A. S. I. (P.W. 62) interrogated Ishar Das accused in the presence of Jag Ram (P.W. 53) and Bhagwat (P.W. 54) when he made the disclosure statement Exhibit PBE stating that he has placed a Lathi with iron and brass handles underneath the stores near the hillock. He then led to the

investigating party to that place from where he recovered Lathi (P. 10) which was taken into possession vide memo Exhibit PBE/A. On the 19th August, 1960 Shri Gian Chand S. H. O. (P.W. 70) interrogated Moti Ram accused who made a disclosure statement Exhibit PBM, in the presence of Ishwar Chand in the water well in that area of Neighborhood. He then the investigating party to the above place and produced the handcuffs (P. 11) which were duly taken into possession vide memo Exhibit PBF.

(6) The identification parade of 23 accused mentioned to Exhibit PAN/A was to be held on the 22nd July 1960 but they refused to take part in it. Their statements were therefore recorded by Shri B. S. Randhawa, the then Additional District Magistrate at Gurgaon. Similarly Deep Singh, Roshan All and Amar Nath accused also declined to take part in the identification parade on the 29th July 1960 and made there respective statement s vide Exhibits PAJ, PAK and PAL in the court of Shri S. K. Dewan, Magistrate Ist Class. then again on the 6th August Karan Singh and Moti Ram accused refused to take part in the identification parade and accordingly there statements, Exhibits PAN/AB, and PAN/AC respectively, were recorded. On the 21st August 1960 Roshan Lal accused was to be identified but he made a statement, Exhibit PAN/Z, refusing to take part in the parade.

(7) All the accused in the case denied the allegations against them and all except Anup Singh accused stated that they had been implicated in this case because of their being the Trade Union Workers and for taking prominent part in the uplift of the Mazdoors. They were, therefore, know to the witnesses and as such had been falsely involved in this case. But none of them led any evidence in defence.

(8) The learned counsel for the accused did not seriously deny that the mob did not act in the manner alleged, but submitted that the first information report was lodged by no less a person than Ram Labhaya S. H. O. him self immediately after this occurrence in which the name of only Rup Chand, Tek Chand Bhatia, Moti Ram, Karan Singh, Hakam Chand and Dev Nath Appellants besides those of Prem Singh, Hem Raj and Madan Lal, were mentioned as the leaders who were inciting the mob which went to Neighbourhood No. 3, and after forming themselves into an unlawful assembly tried to disturb the auction. Prem Singh, Hem Raj and

Madan Lal out of them, however, were arrested by the police earlier after they crossed over the drain and interfered with the progress of the auction. They were immediately sent to the Police Station, Faridabad. The rest of them still led the mob which acted in the manner already stated above. He submitted or any other particulars given of any offender.

Under the circumstances the case only rests on the identification at least in so far as it relates to the person not mentioned in the first information report. He contended that although on their arrest the accused in this case refused to take part in the identification though they were given the option, but all of them has applied on the 13th August for holding their identification parade which was opposed by the police and rejected by the Magistrate for no valid reasons. He submitted further that although the substantive evidence in this case on the point of identification would be what took place in the Court yet its value will be nil or almost nil if the identification in Court is not corroborated by the earlier identification held during the investigation of the case. In support of this argument he cited *Kanta Prashad v. Delhi Administration*, AIR 1958 SC 350. It is laid down therein not make inadmissible the evidence of identification in Court. The weight to be attached to such identification is a matter for the Courts of fact. He also cited *Birey Singh v. State*, AIR 1953 All 785 which lays down that in the absence of identification proceedings the mere 'ipse dixit' of the witnesses that the accused was one of the dacoits could not be believed. Reliance was also placed on *Vailuntam Chandrappa v. State of Andhra Pradesh*, AIR 1960 SC 1340 wherein it is laid down that it is true that the substantive evidence of a witness is his statement in Court; but the purpose of test identification is to test that evidence and the safe rule is that the sworn testimony of witnesses in court as to the identity of the accused who are strangers to the witnesses, generally speaking, requires corroboration which should be in the form of an earlier identification proceeding. It was also held therein that where in a murder charge against several accused under section 302 read with section 34, Penal Code, an identification parade consisting of 46 persons in which picking out 9 persons made 3 correct identification and made 6 mistakes, no reliance could be placed on such an identification by the witnesses even though he was disinterested and it could not be used as corroboration of the evidence of another interested eye-witnesses and

further that where an eye-witnesses failed to pick out an accused both in the identification parade as well as in the Committing Magistrate's Court it would be entirely incorrect to rely upon his belated identification in the Sessions Court.

(9) The learned counsel for the State on the other hand quoted *Narain Singh v. State* 64 Pun accused to participate in the identification parade goes very much against him. Failure to hold an identification parade does not make inadmissible the evidence of identification in Court. Where the prosecution is prepared to hold identification parade but the accused refuses to participate in it, presumption is prepared to hold identification parade but the accused refuses to participate in it presumption goes against him, that the witnesses would have identified him in the identification parade also. He also cited *State v. Ghulam Mohiuddin*, AIR 1951 All 475 wherein it was held that when at the commencement of or during the course of the trial the accused informs the Court that the prosecution witnesses have never seen him committing the crime and he was not even known to them., the Court may in its discretion satisfy itself by asking the accused to stand among other persons present in Court and then call upon the witnesses, who appear before the Court to identify the accused and make a note of the result on the record; but the Court cannot make an order for holding of a regular identification parade at the instance of an accused before the witnesses were examined in Court, there being no provision in the Criminal Procedure Code authorising the Court to do so.

Reliance was also placed on *In re Sangiah* AIR 1948 Mad 113 which authority also holds a similar view. *Provash Kumar v. The King* AIR 1951 Cal 475 was also brought to our notice. This is a Division Bench judgment delivered by Harries C. J. and Das Gupta J. wherein they held that

'the fact that the witnesses have identified in Court the accused is of very little consequence in none of the witnesses knew the accused from before. Before such identification can be accepted as sufficient to establish the identity of the accused it is very necessary that there must be good corroborative evidence which one is entitled to expect in cases of this nature the accused whom they identified in Court from the midst of other persons with whom they were mixed up at a test identification parade. The evidence of their having identified such person at a test

identification parade has no substantive value but is very important corroboration of their evidence in Court.'

(10) Another authority which is relevant for the determination of the point before us in *Awadh Singh v. State*, AIR 1954 Pat 483 where it has been laid down that the accused persons may or may not have legal right to claim for test identification and the holding of test identification may or may not be a rule of law, but it is a rule of prudence. Test identification parade should be held especially when the accused person definitely assert that they were unknown to the prosecution witnesses either by name or by face and they requested the authorities concerned to have the test identification parade though may not be a ground to vitiate the trial is undoubtedly a very important features in considering the credibility of the witnesses on the point of identification. In *Lajja Ram v. State* AIR 1955 All 671 it was held that

'although the accused has no right to claim identification if the prosecution turns down his request for identification it runs the risk of the veracity of the eye-witnesses being challenged on that ground. The prosecution will be exposing the claim of such witnesses to the criticism that that the test of identification was shirked because the witnesses would not have been able to stand that test. Unless therefore the prosecution can nullify the at criticism there would be an element of doubt attaching to the testimony of those witnesses of which the benefit should go to the accused.'

It was further observed in that case that if the prosecution failed in that duty, the Magistrate should have ordered the holding of identification proceedings when the appellant's application was put up before him.

(11) We are of the considered view that the accused in such cases cannot compel the prosecution to hold their identification during the investigation and there is there is no law or procedure under which the Magistrate could pass such an order. But if such a prayer is made by the accused and the prosecution opposes such a request. by so doing it exposes the witnesses of identification to a genuine criticism that they would probably not be able to identify the offenders correctly if the parade was held. Under such circumstances therefore it is desirable that the

identification parade of the culprits should be held if so desired by offenders. It is also borne out that the substantive evidence of identification will only be in Court, and if the parade was held earlier during the investigation that could be used by way of corroboration. The accused made an application on 13th August, 1960 in the Court of the Magistrate for holding their identification the request was opposed by the prosecution mainly on the ground that this was being simple to prolong the case.

I feel that the reason for this refusal was not justified under these circumstances. All the accused in this case at that time were behind the bars. Most of them were labourers of petty technicians and consequently of meagre means. Under the circumstances it was not in their interest to prolong the proceedings. The other reasons which could have been for such a refusal was that during this period of one week or so the accused were able to prevail upon their witnesses in this case to help them but we find that there were as many as 26 eye-witnesses in this case and out of them only Shiv Dayal (P.W. 12) and Amin Lal (P.W. 41) were the non-official witnesses. The rest of them either belonged to the auctioning party or the police. There was therefore no valid reason for the prosecution to oppose the application. Over and above that we find that the occurrence took place on the 29th June 1960 yet no arrests were made till about the middle of July although the majority of the accused in this case remained in Faridabad Township during all this time.

The defence counsel maintained that the reason for not arresting the accused in this case earlier was that the prosecution did not actually know as to which of the persons had participated in this affair and further that their desire was to rope in all the persons in this case who would take part in the enquiry set up by the State for the purpose of determining whether the firing in this case by the police was justified. Moreover it is also to be kept in mind that the identification of the accused in this case took place in Court about nine months thereafter. The defence counsel, therefore submitted that the prosecution had more than an ample opportunity during the period to show the accused to the eye-witnesses. While examining this argument we find that the challan in this case was put in court on the 11th October 1960 but no witnesses were summoned and the case was

adjourned to the 17th October when only one witness namely Shiv Dayal was summoned and examined. It was on the 17th November 1960 that the case was committed to the Court of Sessions.

We also find that the Sarv Mitter (P.W. 11) was served for the 21st February 1961 but was examined on the 22nd. Shiv Dayal (P.W. 12) was served for the 21st but was partly examined on the 22nd and partly on the 23rd. Amar Singh (P.W. 13) was served for the 22nd but was examined on the 23rd. Sat Pal (P.W. 14) was served for the 23rd but was examined on the 24th. Pall Ram (P.W. 15) was served for the 22nd but was examined on the 24th. Milkhi Ram (P.W. 16) was served for the 24th but was examined partly on that day and partly on the 27th February. Gurdas Ram Sethi (P.W. 17) was served for the 23rd but was examined on the 27th. Harish Chandar (P.W. 18) was served for the 22nd but was examined on the 27th. Harbans Singh (P.W. 19) was served for the 24th but was examined on the 27th. Ajmer Singh (P.W. 20), Chandar Singh (P.W. 21) and Bakhtawar Singh (P.W. 22) were served for the 27th but were examined on the 28th. Jammu Ram (P.W. 23) was served for the 22nd but was examined on the 28th. Moti Ram (P.W. 33) was served for the 27th February but was examined on the 1st March 1961. Shri Chand (P.W. 38) and Ram Labhaya (P.W. 39) were served for the 23rd February but were examined on the 6th March. Amin Lal (P.W. 41) was served for the 22nd February but was partly examined on the 6th and partly on the 7th March 1961. Shiv Kumar (P.W. 42) and Ram Labhaya (P.W. 43) were served for the 24th February but were examined on the 7th March 1961, while Sawan Singh (P.W. 49) and Manmohan Saran (P.W. 51) who were served for the 27th February were examined on the 8th March 1961.

It is also to be kept in mind that most of these witnesses were local residents or residents of the neighbouring villages and some out of them were of Delhi. Under the circumstances there was ample opportunity for these witnesses to see the accused before they were actually put into the witness-box. It is also to be kept in mind that the police were unduly interested in this case as one of their officers unfortunately met his end at the hands of the mob. They would, therefore naturally do their utmost to see that the accused in this case received due punishment and also that sufficient material was brought on the file to strengthen the prosecution.

case. As already remarked no description other particulars of the accused were given in the first information report except those already mentioned earlier. We also find that although Mulkh Raj Premi played an important part in this drama, and according to the prosecution it was he who snatched away the revolver for Mohinder Singh A. S. I and shot him dead with it, and also that some bolster and wrist watch from Ram Labhaya S. H. O. these persons have been given in the first information report.

Under the circumstances unless there is corroboration of the witnesses who have picked up some of the accused in Court correctly it will perhaps not be safe or prudent to hold those accused guilty and except for these accused whose names are mentioned in the first information report others would be entitled to the benefit of doubt as far as their conviction under sections 332 and 333, read with section 149 and S. 147 Indian Penal Code, is concerned. Similarly the conviction of Mulkh Raj Premi under section 302, Indian Penal Code cannot be sustained.

(11a) We however, find that Mulkh Raj Premi immediately after his arrest on interrogation made a disclosure statement on the 19th July 1960 in the presence of Mohinder Singh, Hukam Chand and got recovered the revolver along with eight cartridges. The learned counsel for the appellant had nothing substantial to say against this recovery. The conviction and sentenced of Mulkh Rah Premi, therefore under the Arms Act are maintained.

(12) Similarly, we find that Tek Chand appellant after his arrest made a disclosure statement Exhibit P. B. I on the 27th July 1960 and in pursuance of that statement got recovered a revolver, Exhibit P. 21, in the presence of Rup Chand Ram constable (P.W. 59) and Tej Ram (P.W. 66) vide, memo Exhibit PBJ. Tej Ram and Bhagat Ram out of them were tendered but were not cross-examined. The learned counsel for the appellants has nothing substantial to say against these witnesses. This recovery also in our opinion is fully proved. The conviction and sentence of Tek Chand appellant under the Arms Act is therefore maintained.

(13) The recovery of the Lathi (P.10) from Ishar Das accused does not in any way connect this person with any offence. The lathi is of a common pattern with no special mark of identification

(14) We, however, find that the names of Rup Chand, Tek Chand, Dev Nath, Hakam Chand, Karan Singh and Moti Ram were mentioned in the first information report as leaders of the mob who was responsible for committing the above offences. Over and above the Rup Chand appellant was named as a culprit by Ram Labhaya (P.W. 39) Moti Ram (P.W. 33) Ajmer Singh (P.W. 20), Chandar Singh (P.W. 21), Bakhtawar Singh (P.W. 22), Harbans Singh (P.W. 19), Ram Labhaya Foot Constable (P. W, 43), Jammu Ram (P.W. 23). Shri Dayal (P.W. 12) Amar Singh (P.W. 13), Harish Chander (P.W. 18) and Duli Chand (P. W, 34). All these persons had also picked him up correctly in Court except Duli Chand, who failed to do so. Similarly, Tek Chand was named and picked up by Ram Labhaya S. H. O. Bakhtawar Singh, Ram Labhaya Foot Constable, Jammu Ram Shiv Dayal Amar Singh, Milkhi Ram and Shiv Kumar P.Ws. information report and besides that he was correctly picked up by Ram Labhaya S. H. O. Harbans Singh and Shiv Dayal; P. Ws.

Moreover he has stated that he was previously known to the witnesses. Hakam Chand, besides his name being mentioned in the first information report was named and picked up by Shiv Dayal and Amar Singh P. Ws. Karan Singh also besides his name being mentioned in the first information report was named and picked up by Sawan Singh (P.W. 49), Manmohan Saran (P.W. 51), Ajmer Harbans Singh (P.W. 19). Handcuffs. Exhibit P.11, We however find that this accused was sentenced to the period of confinement already suffered by him as an under trial prisoner. The State has filed a revision inter alia for the enhancement of the sentence of this accused. The conviction of the above named five appellants and this accused is conviction and sentence of Rup Chand, Tek Chand, Dev Nath, Hakam Chand and Karan Singh appellants were also maintain the conviction of Moti Ram accused and enhance his sentence to one years two year's and three months' R. I under Ss. 332/ 149, The appeals and the revision filed by the State are accepted only to the above extent.

(15) It is true that the mob in this case acted in a very highhanded manner and went to the extent of disturbing the peace not only once but on two consecutive dated, i.e. on the 28th and 29th July 1960. It is also true that one young police officer lost his life in defending himself and his companies from the attack of the

mob, but unfortunately the identify of some of the accused who are being acquitted in this case cannot be said to be fully established for the reasons already given. We therefore have all the sympathies with the deceased and his family but cannot convict all the accused when we hold that some of them might have been erroneously involved. It is the well established principle of criminal jurisprudence that hundred guilty persons might be let off but not even a single innocent individual be sentenced.

R.P. Khosla, J.

I agree.

Order accordingly.

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