

Dalip Singh and anr. Vs. the State

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Court : Punjab and Haryana

Decided On : Mar-31-1953

Reported in : AIR1953P& H241

Judge : Kapur and; Dulat, JJ.

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

Appeal No. : Criminal Appeal No. 12 of 1953

Appellant : Dalip Singh and anr.

Respondent : The State

Advocate for Def. : Har Parshad, Assistant Adv. General

Advocate for Pet/Ap. : C. Rai, Adv.

Judgement :

Kapur, J.

1. This is an appeal brought by Dalip Singh against his conviction under Section 302 and sentence of transportation for life and by Sowarn Singh against his conviction under Section 323, Penal Code and a sentence of six months' rigorous imprisonment. Along with these two, who are brothers, their paternal uncle Karam Singh was tried for murder but has been acquitted.

2. The occurrence is the result of very unfortunate circumstances. On 20-5-1952, at about 8 p. m. in the compound of the local Primary School a meeting was held at the instance of the Tahsildar who was present for the purpose of electing members of the Consolidation Advisory Committee. Lal Singh deceased was elected but Sowarn Singh took objection to his election stating that he was a dishonest man. Thereupon Saudagar Singh son of Lal Singh and Sowarn Singh began to grapple with each other but they were separated by the Tahsildar who intervened. This, however, did not cool down their tempers and a little later they again began to grapple with each other. Lal Singh, according to the story of the prosecution, came forward in order to rescue his son. Thereupon Dalip Singh gave a blow on his head and Lal Singh fell down. Sowarn Singh took the stick and gave a blow to Saudagar Singh which caused minor injuries. Sowarn Singh and Karam Singh are then alleged to have shouted that Lal Singh should not be spared to be able to make a statement, and Dalip Singh thereupon gave another blow on the arm of Lal Singh which fractured it. Lal Singh died soon after and three persons were prosecuted for murder--Dalip Singh and his brother Sowarn Singh who are the appellants and Karam Singh their uncle who has been acquitted.

3. Mr. Rai for the appellants has taken us through the evidence of the important witnesses, i.e., the Tahsildar P. W. 2, Saudagar Singh P. W. 3 and Kishan Singh P. W. 18. It is clear from this that there was a great deal of ill-will between the parties. Proceedings under Section 107 read with Section 151, Criminal P. C. were pending and there also had been civil litigation between the parties. The evidence also shows that Lal Singh had intervened when Sowarn Singh and Saudagar Singh were grappling with each other, and the evidence of Kishan Singh P. W. 18 shows that Lal Singh had caught hold of the long hair of Sowarn Singh. It was in these circumstances that Dalip Singh gave a blow on the head of Lal Singh. This in my opinion takes the case out of the offence of murder and I would reduce it to one under Section 304, Part II, Penal Code, but in the circumstances I think that a sentence of five years' rigorous imprisonment will meet the ends of justice. The appeal of Dalip Singh is therefore allowed to that extent.

4. With regard to Sowarn Singh, he caused only simple injuries. He has undergone a trial for murder and in the circumstances of this case I think a sentence of fine

will meet the ends of justice. I would therefore sentence him to a fine of Rs. 50/- and in default three months' rigorous imprisonment.

Dulat, J.

5. I agree.

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