

Ranjha and Another Vs. State of Punjab

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Court : Supreme Court of India

Decided On : Aug-16-1996

Reported in : 1996VIAD(SC)147; AIR1996SC2741; 1996(2)ALD(Cri)509; 1996CriLJ3991; 1996(3)Crimes205(SC); JT1996(7)SC540; 1996(5)SCALE864

Judge : M.K. Mukherjee and; S.P. Kurdukar, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 34, 300, 302, 304, 323 and 324; East Punjab Children Act - Sections 27

Appeal No. : Criminal Appeal No. 845 of 1981

Appellant : Ranjha and Another

Respondent : State of Punjab

Judgement :

ORDER

M.K. Mukherjee, J.

1. Ranjha and Billu, the two appellants before us, and Kala, son of Ranjha, were prosecuted under Sections 302/34, 324, 324/34 and 323/34 of the Indian Penal Code in the Court of the Sessions Judge, Ferozepore for committing the murder of Khanu and causing injuries to Mana (PW 3). They were, however, given the benefit of doubt and acquitted. Against their acquittal the State of Punjab preferred

an appeal which was allowed by the High Court and all of them were convicted for the offences alleged against them. Following their conviction the High Court sentenced the two appellants to different terms of imprisonment, including life, with a direction that the sentences would run concurrently but dealt with Kala in accordance with Section 27 of the East Punjab Children Act as he was a child within the meaning of the said Act on the date of the incident.

Aggrieved by their conviction and sentence the appellants have preferred this appeal under Section 379 Cr. PC.

2. The prosecution case as made out at the trial is as under:

(a) In the evening of February 23, 1978, Dittu (P.W. 2) was in his house in village Pirke Khangarh and was waiting for the arrival of his father Khanu and nephew Mana. At or about 9 P.M. he heard an alarm and responding to the same when he went out of his house he found appellant Billu armed with a gandhali, appellant Ranjha with a stick and Kala with a kassi standing near the house of Ranjha. His father and Mana were also there. Billu was asking Khanu and Mana not to go past his house as they had earlier objected to their (the appellants') selling liquor. In course of the quarrel that ensued over that issue Billu gave a gandhali blow hitting Mana on the head and Ranjha gave a blow with his stick on the right arm of Mana. Mana fell down due to the assault and then Kala gave two kassia blos on his legs. When Khanu tried to rescue Mana, Billu gave a gandhali blow hitting him on his back as a result of which he dropped down. Ranjha and Kala then started giving him further blows with their respective weapons. Dittu and Walla, who was also present there, raised a hue and cry, and the three accused ran away with their respective weapons. Dittu and Walla then took Khanu and Mana to their house and gave them some first-aid. Khanu, however, died a few hours later.

(b) Dittu then went to Harbans Singh, a member of the Panchayat, and narrated the incident to him. Accompanied by Shabu, the chowkidar of the village, Dittu came back home and leaving Shabu to look after the dead body of Khanu went to Mamdot Police Station and lodged an information about the incident. SI Hardeep Singh (PW 5) registered a case on that information and went to the spot. He first held inquest upon the dead body of Khanu and sent the same for post-mortem

examination. In course of the investigation he arrested the three accused persons and pursuant to the statements made by Billu, Kala and Ranjha recovered a gandhali, a kassia and a stick respectively. On completion of investigation he submitted charge-sheet and in due course the case was committed to the Court of Session.

3. In support of its case the prosecution examined besides other witnesses, Dittu (PW 2) and Mana (PW 3) who gave an ocular version of the incident. Dr. Berinder Pal Singh (PW 1) testified that on February 24, 1978 at 12.15 P.M. he examined Mana and found the following injuries on his person:

1. An incised wound 1 cm, x 1.5 cm. on front and middle of right leg. Blood clot was present.
2. Incised wound 2.5 cm. x 0.5 cm. on front and upper ;half of the left leg, 11 cm. below the left knee. The wound was bone deep and x-ray was advised.
3. Lacerated wound 2.5 cm. x 1 cm. on front and middle of left leg, 1 cm. below injury No.2. The wound was verticle in direction and was bone deep. Blood clot was present. X-ray was advised.
4. Reddish contusion 8 cm. x 3 cm. on upper and lateral aspect of right thigh. It was oblique in direction. Patient complained of pain in right hip joint on movement. X-ray was advised.
5. Reddish contusion 10 cm. x 3 cm. on upper and lateral aspect of left thigh. Patient complained of pain on movement. X-ray was advised.
6. A swelling 10 cm. x 8 cm. on right deltoid regionwith over-lying abrasion 2.5 cm. x 0.5 cm. Crust formation was in the process.
7. Incised wound 5.5 cm x 0.5 cm. on left parietal region, 3.5 cm. away from mid-line. The wound was saquittal in direction and was bone deep.
8. Swelling 22 cm. x 8 cm. on right elbow. X-ray was advised.
9. Swelling 4 cm. x 3 cm. on left parieto-occipital region. X-ray was advised.

He opined that injury Nos. 1, 2 and 7 were caused by sharp edged weapon and the remaining injuries by a blunt weapon.

4. The other doctor examined by the prosecution was Dr.B.L. Duggal (PW 7), who conducted post mortem on the dead body of Khanu on February 24, 1978 at 1.30 P.M. and found the following injuries:

1. Abraded contusion 6 cm. x 1 cm. on the upper part of back of left side of chest just below scapular region.
2. Abraded contusion 3 cm. x 1/2 cm. lying transversely just injury No. 1.
3. Abraded contusion longitudinal in direction 11 cm. x 1/2 cm. on the just left to mid-line on the back of lower part of chest going obliquely to the upper part of the abdomen. 7th, 8th and 9th left ribs were fractured. Left pleura was lacerated corresponding to fracture of ribs No. 7 and 8.
4. Abraded contusion 11 cm. x 1/2 cm. transverse in direction just below injury No.3.
5. Abraded confusion 5 cm. x 1/2 cm. on the top of left shoulder.
6. Lacerated wound 5 cm. x 1/2 cm. x skin deep on the back of middle of left leg.
7. Lacerated wound 1.5 cm. x 1/2 cm. x skin deep on the back of lower left leg.
8. Abrasion 2.5 cm. x 3/4 cm. in front of lower part left leg.

As to the cause of the death of Khanu, Dr. Duggal opined that it was due to haemorrhage and shock caused by rupture of the spleen. The other witnesses examined by the prosecution were an ASI of Police and the Investigating Officer (PW 5).

5. At the trial the appellants contended that the incident did not take place in the manner alleged by the prosecution and denied their participation in the crime. The appellant, Ranjha, pleaded that Janu, who had a strained relationship with his brother Khanu, had lodged a report against Mana for committing an unnatural

offence. Being a member of the Panchayat he (Ranjha) had then accompanied Janu to the Police Station and for that reason he was falsely implicated in the case. Appellant Billu, however, did not take any specific stand. No evidence was adduced on behalf of the appellants in their defence.

6. In recording the order of acquittal in favour of the accused persons the trial Judge first held that there was a considerable delay in lodging the FIR, in that, while according to the prosecution the incident took place at or about 9 P.M. on February 23, 1978, the FIR was purportedly lodged at 4 A.M. on the following day though the distance between the Police Station and the village in question was only 6 miles. In reversing the above finding, the High Court referred to and relied upon the evidence of Dittu wherein he had stated that he made an effort to arrange some conveyance to go to the Police Station and when he did not find any he went on foot and lodged the report. The High Court also took note of the fact that after the incident he (Dittu) had taken Khanu and Mana to their house and fomented their injuries, and inferred therefrom that it might be that they did not expect the death to occur so quickly and that it was only after the death had occurred that Dittu went to the Police Station to lodge the report. Taking all the above aspects into consideration the High Court held that being a winter night and the death having taken place at mid-night it could not be said that there was any delay in lodging the FIR. On perusal of the evidence we are in complete agreement with the High Court that there was no delay in lodging the FIR; and on the contrary, we are of the opinion the FIR was lodged at the earliest available opportunity and it fully supports the case of the prosecution.

7. The trial Judge had also posed the question as to whether the FIR was actually prepared at 4 A.M. and answered the same in the negative. In drawing the above conclusion the trial Judge first adverted to the testimony of Mana wherein he had stated that his father and Nawab took him to hospital at Mamdot reaching there at about 3 or 3.30 A.M. and that the doctor being not available they waited outside the hospital in a cart for about an hour. The trial Judge took further note of his evidence that his father and Nawab went to the police station which was just opposite the hospital. It is in the context of the above statement of Mana, the trial Judge observed that no reason was ascribed by the prosecution as to why the

police did not register the case at 3 or 3.30 A.M. when injured Mana was very much available outside the police station and that too for about an hour. This finding of the trial Judge was criticised by the High Court on the ground that the injured and his father were more concerned at that time about the medical aid to be given to the former and even if they had not lodged the F.I.R. it hardly mattered as Dittu had already gone to the police station for the purpose. The High Court also took exception to the other comment made by the trial Judge, that if Mana could reach Mamdot at 3 or 3.30 A.M. in cart then why Dittu could not reach at the same time if he had gone on foot, on the ground that admittedly cart was a quicker mode of transportation than walking. For these considerations the High Court negated the reasoning of the trial Judge for drawing the conclusion that the FIR was not lodged at the time it was alleged by the prosecution. Having carefully considered the evidence we are of the view that the trial Judge was not at all justified in advancing filmy reasons for disbelieving the prosecution case that the FIR was lodged at 4 A.M.

8. The trial Judge also doubted the presence of Dittu and Mana at the spot at the material time. As regards the presence of Dittu the trial Judge observed that his house was situated far away from the place of occurrence and hence he was not expected to see the incident. Regarding the presence of Mana the trial Judge first observed that having regard to the fact that he had sustained injuries his presence at the time of occurrence could not be doubted; but, surprisingly enough, in spite of such observation, the trial Judge refused to rely upon his evidence on the grounds that even though he had the opportunity to give his version to the police at or about 3 A.M. he did not do so and that his evidence was not corroborated by the medical evidence. In concluding that the above reasons of the trial Judge were patently wrong and perverse the High Court pointed out that the distance between the house of Dittu and the place of incident could not be a long one for the village where the occurrence took place itself was not a very big one nor the house therein were located at distant places. Another observation of the High Court in this regard was that as both the parties belonged to one community (Harijan) their houses were situated at one side of the village and those houses adjoined the other houses of the locality. The High Court also observed that the trial Judge's finding that in between the houses of Zail Singh and Dittu' there was another

house of 5 marlas was incorrect as there was no evidence in support thereof. As regards the acceptability of the evidence of Mana the High Court held that the presence of injuries on his person fully supported his claim that he had seen the occurrence and that the trial Judge's observation that the medical evidence did not corroborate his evidence was not borne out by the record.

9. After having demonstrated that each of the reasonings canvassed by the trial Judge to record the acquittal was wholly untenable the High Court discussed the evidence of the eye-witnesses keeping in view the medical evidence and found the same acceptable. We have also, for ourselves, gone through the entire evidence on record and we find no reason to differ from the conclusions drawn by the High Court that Khanu met with his death owing to the injuries inflicted upon him by the three accused persons and that Mana also sustained injuries at their hands.

10. The next question, which is required to be considered, is whether by causing the death of Khanu the appellants committed the offence of murder, as held by the High Court, or culpable homicide not amounting to murder. From the injuries found on the person of Khanu, as detailed earlier, we get that except one abraded contusion on the back of the lower part of the chest (injury No. 3), beneath which three ribs were found fractured, all other injuries were simple and most of them were inflicted on non-vital parts of the body. If really the three accused persons intended to cause death of the deceased it was likely that they would have caused much more grievous injuries on vital parts of the body more so when they were armed with deadly weapons. Considering this aspect of the matter and the nature of the injuries sustained by Khanu, we feel that the offence committed by the two appellants in causing the death of Khanu comes under Section 304 (Part II) IPC. We, therefore, set aside the conviction and sentence of the appellants under Section 302/34 IPC; and instead thereof convict them under Section 304 (Part II)/ 34 IPC and sentence each of them to suffer rigorous imprisonment for seven years. The other convictions and sentences recorded against them by the High Court and its direction that the sentence would run concurrently will, however, stand. The appellants, who are on bail, will now surrender to their bail bonds to serve out the sentence now imposed by us. The appeal is thus disposed of.

