Surjit Singh Vs. the State

Surjit Singh Vs. the State

SooperKanoon Citation : sooperkanoon.com/681397

Court : Delhi

Decided On : Mar-19-1986

Reported in : ILR1986Delhi481

Judge : Malik Sharief-Ud-Din and; R.N. Aggarwal, JJ.

Acts : Indian Penal Code (IPC), 1860 - Sections 302

Appeal No. : Criminal Appeal No. 17 of 1983

Appellant : Surjit Singh

Respondent : The State

Judgement :

Malik Sharief-Ud-Din, J.

1. The appellant Surjit Singh, alias Tite, was found guilty of offence under S. 302 IPC by the Addl. Sessions Judge, Delhi. He was convicted by his order dated 13-12-82 and was sentenced to life imprisonment vide order dated 16-12-82. Beside, a fine of Rs. 2000/- was also imposed, in default of payment of which he was also sentenced to undergo six months imprisonment. Feeling aggrieved, this appeal has been preferred.

2. The incident is of 24-10-81 at about 5.35 p.m. in the area of Central Market, Madangir. The victim is one Sheel Kumar. The facts are that the deceased Sheel

Kumar was selling golgappas on a Rehri in front of the shop of P.W. 5 Shri Suraj Pal. His brother P.W. 1 Kishan Lal was also running a book shop in the same market about 60 to 65 yards away from him. Just before the incident the appellant had allegedly eaten golgappas from the deceased but when the deceased demanded the price thereof, there was an argument. On the insistence of the deceased to collect price he was given two stab blows with a dagger in the chest by the appellant, attracting P.Ws. 1, 4 & 5. Before they could intervene the appellant allegedly escaped from the scene. Prosecution case further is that the appellant is a known ruffian.

3. The deceased was immediately removed to Safdar Jung Hospital. He was declared brought dead. On their way to hospital on a question put by P.W. 1 Kishan Lal as to why was he stabbed the deceased told him that, on demanding payment Tite told him that he was a Badmash of the area and nobody dares to demand payment from him and for that reason he was stabbed.

4. Constable on duty in Safdarjung hospital informed P/S Kalkaji about the deceased having been brought dead pursuant to which S.I. Shoban Singh after deputing some constable to guard the scene of incident came to the hospital. He recorded the statement Ex. P.W. 1/A of P.W. 1 Kishan Lal. It is this statement which was made the basis of the F.I.R. registered at 7.35 p.m. on the same evening. The Investigating Officer then went to the scene of the incident and after completing the necessary formalities also recorded the statements of eye witnesses. The dead body was examined on the next morning and after preparing the inquest it was subjected to autopsy. The autopsy was performed by Dr. Yellury P.W. 11. He noticed two stab wounds in the right and left side of chest. He opined that death was caused due to these injuries and further added that these injuries were sufficient in the ordinary course of nature to result in death.

5. The accused was arrested on 25-10-81 in Siriniwas Puri area of Delhi. He was allegedly given a chase as he had started running before his arrest. In the process he had allegedly fallen and had sustained abrasions. While in police custody the appellant is alleged to have made a disclosure statement to P.W. 17 Shoban Singh, S.I. in the presence of Dina Nath P.W. 15, Siya Nand H.C. P.W. 12 and

Kishan Lal P.W. 1 leading to the recovery of the weapon of offence and the blood stained Pant of the accused.

6. We have heard Shri Aggarwal for the appellant as also Shri Lao for the State. The controversy is considerably narrowed down. The cause of death, the weapon of offence used and the time and date of incident are not in dispute. The only controversy to be resolved is as to who has committed this crime. We are not, thereforee, referring to the testimony of P.W. 11 autopsy Surgeon. The fact of the matter is that the deceased died of the two chest injuries he had sustained in this incident and these injuries were sufficient in the ordinary course of nature to result in death. Before we set out to find out if the appellant committed this crime, it is necessary to refer to the stand taken by the appellant.

7. The stand taken by the appellant is that he is known as Surjit alias Pardeep and not as Tite; that he was not in Delhi on the date of incident; that he was neither known to the deceased nor to P.Ws. 1, 4 and 5; that he was brought by the Police from Meerut in the morning at 5 a.m.; that the Police beat him and caused injuries to him; that he made no disclosure and no knife was recovered at his instance. The appellant admits that Exs. P2, P3 & P4 are his clothes; states that these were seized at Meerut. According to him Police have smeared the pant seized from him with blood to involve him in this case.

8. The entire case of the prosecution rests on the testimony of P.Ws. 1, 4 and 5 and also the disclosure statement leading to the recovery of blood stained knife and the blood stained Pant of the appellant. The report of Central Forensic Science Laboratory clearly establishes the fact that the blood group of the deceased was 'B'. Knife seized at the instance of appellant pursuant to his disclosure also contained human blood of 'B' group. The pant was also found to be stained with human blood though its group could not be determined. The witnesses to the disclosure statement and to the consequent seizure of knife and clothes at the instance of the appellant are P.W. 1 Kishan Lal, P.W. 12 Siya Nand, P.W. 15 Dina Nath, S.I. and P.W. 17 Shoban Singh. We have perused and examined their testimony in this regard and we find no reason to disbelieve the same. The plea of the appellant that blood must have been smeared on his pant

by the Police is not tenable as in that case the blood group could also have been determined. It appears that the clothes of the appellant were only taken into possession after he disclosed that he had washed the same.

9. Before proceeding further, we may notice the contentions raised by Shri Aggarwal. He maintained that since the F.I.R. only mentioned the name of Tite, it should be assumed that the culprit was not known and for that reason it was necessary to hold identification parade failing which the identification of the accused at trial was of no importance. He also contended that since the names of the witnesses are not mentioned in the F.I.R. they should be treated as having been procured. He also urged that recovery of knife has been made from open place and that it has been planted. We see no reason to accept any one of the contentions.

10. So far as the first contention is concerned, we may at once point out that the appellant is known to the witnesses as Tite. The expression 'known' does not necessarily mean that the pedigree of the appellant must be known to the witnesses. The eye witnesses have clearly stated that the appellant is known to them as Tite and he is commonly called by that name. He is known to them as a bad character and that is why even P.W. 5 Suraj Pal a most disinterested and independent person has said 'Ghalat Admi Se Dar To Lagta Hee Hai'. This goes to show that the appellant was known to him or else he had no reason to be afraid of him. There is as such no reason to disbelieve at least P.W. 1 Kishan Lal and P.W. 5 Suraj Pal that they knew appellant as Tite. In that view of the matter the objection of Shri Aggarwal to us appears to be untenable.

11. Turning to the next contention we may point out that even though the names of P.W. 4 and P.W. 5 are not mentioned in the F.I.R., P.W. 1 when he made the statement Ex. P.W. 1/A has clearly said that other persons have also seen the incident. The assertion that Suraj Pal P.W. 5 is a procured witness is unjustified. It is not disputed that the deceased was selling 'Golagappas' in front of the shop of P.W. 5. It is also not disputed that P.W. 5 was at his shop at the time of incident. Once that position is accepted he is the most natural witness to the incident. P.W. 5 has clearly and in most unambiguous terms deposed that there was an

argument between the deceased and the appellant which attracted his attention and within his view the appellant inflicted two knife blows on the chest of the deceased and, that the appellant escaped thereafter from the scene. We find nothing in his deposition which calls for discrediting his testimoney. He seems to be the most truthful witness. P.W. 4 Manohar Lal has also deposed that in his presence the appellant stabbed the deceased. He may or he may not be a truthful witness. He is a neighbour of the deceased. According to him he had come to his house from his shop which is situated at a distance of a few kilometers. While explaining his presence he says that he had come to this market for purchasing blades. He is a chance witness. In any case, even if he is not relied upon there is no escape for the appellant in view of the most independent and unbiased testimony of Suraj Pal P.W. 5.

12. The criticism advanced against P.W. 1 Kishan Lal is that he has not seen the incident. Reliance in this regard was placed by Shri Aggarwal on the deposition of P.W. 5 Suraj Pal who has said that Kishan Lal reached the spot after the stab wounds were inflicted by the appellant. We find there is no justification for this assertion. It may be that P.W. 5 noticed P.W. 1 only after the two injuries were inflicted. It is not disputed that P.W. 1 has his book shop at a distance of 60 yards.

13. It is also not disputed that within minutes of the incident P.W. 1 removed the deceased to hospital. P.W. 1 has deposed that first injury was caused to the deceased before he rushed to the scene and he saw the appellant inflicting the second injury while the deceased had fallen on ground. It may be that he was still a little away from the scene when the second injury was inflicted but that does not mean that while on his way he would not have noticed the appellant inflicting the second injury. Probably P.W. 5 did not notice P.W. 1 when he was rushing towards the scene. Moreover the version tendered by P.W. 1 is consistent with the medical evidence of P.W. 11 Dr. Y. R. Yellury. In respect of the first injury he has stated 'The track of the wound was going upwards, backwards.' In respect of injury No. 2 he has stated 'Track of the wound was going downwards, medially backward.' This medical finding clearly goes to show that the second injury was caused to the deceased while he had Fallen on the ground.

14. That apart P.W. 1 Kishan Lal too had seen the appellant escaping from the scene with open knife. There is no reason as such to disbelieve him regarding this fact. On their way to hospital P.W. 1 had inquired from the deceased as to why he was stabbed and the deceased had informed him that when he demanded the price for golgappas he was stabbed. This would go to show that the culprit was known to P.W. 1 and, that is why he did not inquire as to who stabbed. The only information sought by him from the deceased was the cause of stabbing.

15. We are, thereforee, of the view that even if no importance is attached to the evidence tendered by P.W. 4 Manohar Lal, there is absolutely no justification to brush aside the evidence of P.W. 1 and P.W. 5. They are the natural witnesses to the incident. Coupled with the fact that the blood stained knife and blood stained Pant of the appellant were recovered pursuant to the disclosure made by him there is no escape from the conclusion that the appellant is involved in the commission of this crime. Having come to the conclusion that the prosecution has sufficiently connected the appellant with the commission of this crime, it is not necessary to make reference to the evidence examined in defense.

16. Mr. Aggarwal also urged that after giving evidence at trial P.W. 5 Suraj Pal in a written application and affidavit before the trial court has explained the circumstances under which he has given evidence against the accused. According to him this was given under pressure. This argument is to be noticed to be rejected. P.W. 5 Suraj Pal gave evidence on 31-7-82. This application is made three months thereafter. Obviously it has been made by arrangement, most probably for reasons of his own security.

17. The last argument raised by Shri Aggarwal is that the case is not covered by S. 302 I.P.C. Two stab wounds at the most vital part of the body with full force have been inflicted without any provocation. Both the injuries are opined to be sufficient to cause death in ordinary course of nature. The death was caused almost instantaneously. It cannot, thereforee, be said that the death was not intended. The contention, in our view is unsustainable. In view of all that goes before us the appeal is dismissed and conviction and sentence of the appellant is affirmed.

18. Appeal dismissed.