

Man Singh and anr. Vs. the State (Delhi Administration)

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SooperKanoon Citation : sooperkanoon.com/685528

Court : Delhi

Decided On : Mar-30-1983

Reported in : 23(1983)DLT478

Judge : B.N. Aggarwal and; C.R. Luthra, JJ.

Acts : [Indian Penal code, 1860](#) - Sections 302

Appeal No. : Criminal Appeal No. 126 of 1980

Appellant : Man Singh and anr.

Respondent : The State (Delhi Administration)

Advocate for Pet/Ap. : K.K. Sud and; Bharati Anand, Advs

Judgement :

R.N. Aggarwal, J.

(1) Man Singh son of Yad Ram, resident of house No 2117, Gali Ravidas, Teliwara and Trilok Chand, a resident of village and Post Office Rajpura, District Dehra Dun were tried in the court of Shri G.S. Dakha, Additional Sessions Judge, on the charge under Section 302 read with Section 34 of the Indian Penal Code. The learned Judge found both the accused guilty of the offence charged with and sentenced each one of them to imprisonment for life. Against their conviction and sentence they have come in appeal.

(2) The deceased Asha Ghand and Public Witness . 1 Narender Singh resided in the same building at Sish Mahal. According to Public Witness . 1 on 7th October 1978 at about 7 or 7.30 p.m. Asha Chand came to his house and they had tea. Thereafter, both the deceased and Public Witness . 1 left for Mahabir Bazar to attend a Jagran. Public Witness .1 and the deceased after passing in front of the house of Man Singh accused (situated in Gali Ravi Dass) had reached the corner of Gali Ghosian when according to Public Witness . 1 both Man Singh and Trilok Ghand accused armed with daggers came from behind and they started assaulting Asha Chand with their respective weapons. Trilok Chand, it is stated, gave the first blow on the chest and thereafter both Trilok Chand and Man Singh gave a number of dagger blows to Asha Ghand. Public Witness .1 advanced to rescue his companion but both the accused threatened him that in case he intervened he would be killed. On that Public Witness .1 retraced his steps but he collected a few bricks and stones and threw them at the accused. Both the accused after inflicting the injuries ran away.

(3) Ram Kumar Public Witness . 2 brother of Asha Ghand on receiving the news of the assault on his brother reached the spot and he along with Public Witness .1 removed Asha Chand to Hindu Rao Hospital where he was declared dead.

(4) The police control room was informed of the occurrence who further flashed the message to the police station Bara Hindu Rao. The Police Inspector Purshottam Nath Sharma (Public Witness 20) accompanied by Sub-Inspector Sansar Chand reached the spot and started investigation. Sub-Inspector Sansar Chand recorded the statement Ex. PI/A of Public Witness .1 Narender Singh and sent the same with his endorsement Ex. Public Witness . 19/B to the police station for the formal registration of the case. The formal report at the police station was recorded at 9.10 p.m. Public Witness . 20 got the scene of the occurrence photographed, picked up blood stained earth from two different spots and a few bricks. Man Singh accused was arrested from Ambedkar Park, Kabir Basti. On interrogation Man Singh disclosed that his companion Trilok Chand was admitted in the Irwin hospital. On visiting Irwin hospital Public Witness . 20 found that Trilok Chand was admitted in the hospital and was not fit to make statement. Public Witness 20 obtained injury statement Ex. Public Witness . 17/A of Trilok Ghand

accused which showed that Trilok Ghand was admitted in the Irwin hospital on 7th October 1978 at 8 p.m. and he had a number of incised wounds including two in the chest.

(5) Man Singh on 9th October 1978 during interrogation disclosed that he had thrown the dagger in a small well in the fields near Nangloi. This information was not found to be correct. On 11th October 1978 Man Singh made another disclosure that he had kept the dagger under a few old rubber pieces near the Chhojah on the staircase of his house. Man Singh led the police party to his house and got the dagger Ex. P-13 recovered which was seized by the police and sealed into a parcel.

(6) Trilok Chand accused in his statement at the trial denied the prosecution version. The version given by Trilok Chand is that on 7th October 1978 in the evening Asha Chand under the influence of liquor was misbehaving in the street and that he along with some others asked Asha Ghand not to misbehave and on that Asha Chand gave to him a number of injuries on various parts of the body including the abdomen, that Paras Ram tried to intervene and he was also injured, that he became unconscious and he regained consciousness in the hospital.

(7) Man Singh accused also denied the prosecution case and stated that he had been implicated falsely since he had accompanied Trilok Chand to the Irwin hospital. Man Singh further stated that Asha Ghand under the influence of liquor was quarrelling with the people going in the street and that he came to know later on that he was involved in some fight.

(8) Trilok Chand in support of his defense examined constable Balbir Singh (D.W.1) and Paras Ram (D.W.2). Paras Ram supported the version given by Trilok Chand. D.W.1 gave evidence that on 7th October 1978 he was on duty at Irwin hospital and that at 8 p.m. Trilok Ghand was admitted in the hospital and he made a report regarding his admission to the police station Bara Hindu Rao where an entry at Serial No. 12 A was recorded regarding the said report.

(9) There are two serious infirmities which, in our view, render the case of the prosecution doubtful. The first and the foremost is that there is no Explanationn

regarding the injuries on the person of Trilok Chand. There is no doubt that an occurrence did take place in the evening of 7th October 1978 in Gali Ravi Dass or at the junction of Gali Ravi Dass and Gali Ghosian in which Asha Chand received serious injuries and died. The version of Trilok Ghand, as already stated, is that Asha Chand under the influence of liquor was abusing the passers-by and he told Asha Ghand not to ..misbehave and that Asha Ghand gave the knife injuries to him.

(10) This version may not be wholly true but then it is for the prosecution to prove its case beyond doubt.

(11) Trilok Chand was admitted in the Irwin Hospital at 8 p.m. with a number of incised wounds including two in the chest. Trilok Ghand was declared not to be fit for making the statement. Trilok Ghand was discharged from the hospital on 22nd October 1978.

(12) DR.ARVINDCRSINGH(P.W.17) who was first to examine Trilok Ghand gave evidence that the patient was very serious and was having multiple injuries. The doctor deposed that some of the injuries were on the vital parts of the body.

(13) Dr. Bina Chaudhary (P.W.18) gave evidence that according to her observations the injuries found on the person of Trilok Chand were dangerous in nature. The doctor stated that Trilok Ghand was operated upon for the injury in the chest.

(14) The Irwin Hospital (now known as Jay a Prakash Narayan Hospital) is about 10 kilometers from the spot of occurrence. It must have taken about half an hour to remove Trilok Chand to the hospital. This would put the time of the occurrence to round about 7.30 p.m.

(15) Public Witness .1 Narinder Singh and his brother Public Witness .9 Ashok Kumar claimed themselves to be the witnesses to the occurrence. Both Public Witness .1 and P.W.9 have not given any Explanationn regarding the injuries on the body of Trilok Ghand. The site plan shows that the occurrence had taken place in two stages : one in Gali Ravi Dass and second at the junction of Gali Ravi Dass

and Gali Ghosian. The distance between the two spots, according to the plan Ex. Public Witness 6/A, would be more than 20 meters.

(16) Narinder Singh (P.W.1) in the first report had stated that when they reached Gali Ravi Dass Man Singh and Trilok Ghand had come from behind armed with daggers and they attacked Asha Ghand. Public Witness .1 in Court slightly improved upon this version and gave evidence that the accused had first attacked at the corner of gali Ghosian and that during that attack Asha Chand had crawled up to the corner of the Gali and there both the accused had thrown him down and given further knife blows.

(17) The notes in the plan (Ex. Public Witness 6/A) show that at point 'B' the dispute had started and at point 'C' the deceased was stabbed. The point 'B' is in Gali Ravi Dass and point 'C' is at the junction of Gali Ravi Dass and Gali Ghosian.

(18) On the above evidence it is quite possible that first Asha Chand had injured Trilok Ghand in Gali Ravi Dass and subsequently Asha Ghand was attacked and injured. There is no clear evidence as to how the occurrence originated and in what sequence Trilok Ghand and Asha Ghand were injured.

(19) Trilok Chand in his statement had stated that Asha Ghand was drunk and he was misbehaving. Public Witness .1 had first denied that Asha Chand was drunk but subsequently admitted that Asha Ghand was drunk on that evening. The medical evidence shows that Asha Ghand had consumed liquor. This circumstance does support to some extent the defense version.

(20) Public Witness s 1 and 9 have deposed that Man Singh and Trilok Chand after inflicting the dagger blows had run away. This, in the circumstances mentioned, cannot be true. The obvious conclusion would be that either P.Ws 1 and 9 did not see the occurrence or they are suppressing the truth.

(21) Trilok Ghand, it appears to us, had received injuries in the course of the same occurrence. The witnesses have not come out with the truth and, therefore, it is not possible to say with certainty 'who was the aggressor'.

(22) The next notable infirmity is the doubt created by the medical evidence on the use of the dagger Ex. P-13 (mentioned as P-1 in the statement of the doctor) said to have been recovered at the instance of Man Singh. The dagger Ex. P-13 is sharp on both the sides. Dr. Bharat Singh (P.W. 8) testified that in his opinion the injuries were caused with a single edged weapon and not by a double edged weapon. We would like to notice here that the bush-shirt worn by the deceased and the dagger Ex. P-13 were sent to the Forensic Science Laboratory and the expert on an examination of the cut marks on the bush-shirt gave the opinion that the cut marks Q-1 to Q-8 on the bush-shirt have been caused by a weapon having both the edges sharp and, therefore, the cut marks could have been caused by the dagger marked Ext. 10 (the exhibit given by the expert).

(23) Public Witness . 1 gave evidence that the daggers were double edged. From the above discussed evidence it is clear that the medical evidence and the report of the Forensic Science Laboratory are conflicting. Dr. Bharat Singh has expressed a definite opinion that the injuries have been caused with a single edged weapon and the said opinion was not challenged by the Public Prosecutor. The medical evidence makes it doubtful if the weapon Ex. P-13 was used in the commission of the crime.

(24) On the above state of evidence, we are of the view that the only safer course would be to reject the prosecution case-as not proved. We allow the appeal, and set aside the conviction and sentence. The appellants are given benefit of doubt and acquitted. The appellants are on bail and they need not surrender to their bail bonds which are cancelled.