

Jawahar Singh Vs. State

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Court : Delhi

Decided On : Aug-06-1985

Reported in : 29(1986)DLT144

Judge : J.D. Jain, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 435 and 436; [Indian Penal Code \(IPC\), 1860](#) - Sections 34 and 302

Appeal No. : Cr. M(M) 727 of 1985

Appellant : Jawahar Singh

Respondent : State

Advocate for Def. : Sodhi Teja Singh, Adv.

Advocate for Pet/Ap. : K.K. Sood, Adv

Judgement :

J.D. Jain, J.

1. The petitioner Along with about ten more persons is involved in a case under Section 302/34 IPC. The deceased was one Pratap Singh S/o Shri Ratan Singh. It appears that there was some dispute regarding land ever since the consolidation proceedings and both the sides were claiming to be in possession thereof.

According to the prosecution, the complainant side obtained ad-interim injunction from the Civil Court on 25th January, 1985. However, on 26th January, 1985 the accused party comprising Chand Singh, Surjan Singh and Sri Kishan, Jawahar Singh petitioner, Bharat Singh etc. and their ladies went to the land in order to dispossess the complainant side. Chand Singh was armed with a gun and he fired several shots which caused injuries to some of the persons. Subsequently Pratap Singh deceased etc. were seen coming from the side of the village. Thereupon, Jawahar Singh, Sant Ram and Ram Kumar exhorted Bharat Singh, who is brother of the petitioner to open fire. Thereupon he snatched the gun from the hands of Chand Singh and fired a shot which hit Pratap Singh who succumbed to the injuries as a result thereof.

2. The learned counsel for the petitioner has submitted that the land was in possession of the accused party and not in possession of the complainant party as is sought to be made out. He has invited my attention to some orders made by the Financial Commissioner, but as per the prosecution story, and ad-interim injunction had been obtained by the complainant party just a day before this unfortunate occurrence. It may be noticed that Pratap Singh died as a result of second firing which was done on the exhortation of three persons, namely, Jawahar Singh, Sant Ram and Ram Kumar. It is not clear who was the first to shoot.

3. Having regard to all the circumstances of the case, I direct that the petitioner be released on bail on his furnishing a bond in the sum of Rs. 10,000/- (rupees ten thousand only) with one surety in the like amount to the satisfaction of the trial court. It shall be further a condition of the bail bond that the petitioner shall not enter his village Khera or Najafgarh during the days when the prosecution evidence of the ocular witnesses is recorded at the stage of trial.