

Ravi Vs. State

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Court : Delhi

Decided On : May-04-1995

Reported in : 1995CriLJ3593; 1995(33)DRJ682

Judge : P.K. Bahri and; S.D. Pandit, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 302

Appeal No. : Criminal Appeal Nos. 17, 25 and 37 of 1989

Appellant : Ravi

Respondent : State

Advocate for Pet/Ap. : S.K. Sharma,; R.K. Mehta and; P.S. Sharma, Advs

Judgement :

P.K. Bahri, J.

(1) An Additional Sessions Judge, New Delhi vide his judgment dated December 23, 1988 has convicted appellant Ravi guilty of an offence punishable under Section 302 Indian Penal Code . of having caused the murder of one Satinder Singh and under Section 324 for having caused simple injury with sharp edged weapon to Sh.Amrit Pal Singh and held the other two appellants, Joginder @ Kallu and Om Prakash and one Sham Sunder, appellant in Criminal Appeal No.16/89, since deceased, guilty of offences punishable under Section 302 and 324 Indian

Penal Code . both read with Section 34 Indian Penal Code . and by subsequent order dated December 24 1988, he sentenced all of them to undergo life imprisonment for the offence of murder and to pay a fine of Rs.2,000.00 and in default to undergo rigorous imprisonment for six months and sentenced them to undergo one year imprisonment and a fine of Rs.500.00 each and in default to undergo rigorous imprisonment for three months for offence under Section 324 Indian Penal Code . with the directions that substantive sentences of imprisonment shall run concurrently.

(2) The facts of the case, as culled out from the record, in brief, are that Satinder Singh, S/o Bhagwana, r/o WZ-141, Subhash Nagar, New Delhi, on 18th July 1985 at about 10.10 P.M, got himself admitted in Ram Manohar Lohia Hospital with the alleged history of assault. He had no history of unconsciousness and he was found to be fully conscious and he had following injuries:- a) Incised wound obliquely placed 1' x 1/4' in size in the right hypochondrium in mid axillary line through which omentum is protruding; b) Incised wound 3' x 1/2' in size anterior medial aspect of right knee tendon exposed. The injuries were opined to have been caused by sharp edged weapon and he was referred to surgical ward.

(3) Amrit Pal Singh, Public Witness 2 also got himself admitted in the same hospital on that very day at 10.25 P.M. with alleged history of assault with no history of having become unconscious and following injury was noticed:- a) Incised wound 1' x 1/4' transversely placed on the anteriolateral aspect of left upper arm 4' below top of acromion process.

(4) M.L.C, Ex.PW20/A and 20/C were prepared in the said hospital. A Duty Constable at the said hospital had given telephonic message to Police Station Pahar Ganj at 11.20 P.M. mentioning that the two injured had got themselves admitted in the hospital having been injured in a quarrel in front of New Delhi Railway Station. The report was recorded at Serial No.34 in Daily Diary at Police Post Sangtarashan which is part of Police Station Pahar Ganj, copy of which is Ex.PW20/B.

(5) PW22, Lakshmi Chand, S.I. was deputed to inquire into the matter and he came to the hospital and the Duty Constable informed him that in fact the injured

were involved in a quarrel which took place near Shankar Market Bus Stand, Connaught Place and the information was given in this connection to Police Station Connaught Place which was recorded at Daily Diary No.64-B, copy of which is Ex.PW9/A.

(6) Lakshmi Chand had come to the hospital and he wanted to take the medical report of Satinder Singh but he could not obtain it as the doctor was busy with other patients and as he was informed that occurrence had take place within the jurisdiction of New Delhi Railway Station, as told to him by Satinder Singh, he gave the information to New Delhi Railway Station Police Station, which was recorded at Daily Diary No.2-A, copy of which is Ex.PW10/A, which was recorded at 1.10 A.M.

(7) Head Constable Suraj Bhan, Public Witness 25, on receiving the copy of the said report, reached the hospital but the doctor declared Satinder Singh unfit to give any statement. He obtained the M.L.C. and as he met no eye witnesses, he proceeded to make his endorsement, Ex.PW25/A, for getting the case registered under Section 324 Indian Penal Code . on the basis of which F.I.R. was registered vide F.I.R. No.256/85.

(8) S.I.LAKSHMI Chand is stated to have also met Amrit Pal Singh, injured, in the hospital who told him that the occurrence had taken place at Bus Stop Shankar Market which is within the jurisdiction of Police Station Connaught Place whereas Satinder Singh had told him that he was injured in a quarrel at New Delhi Railway Station and as Satinder Singh was in pain and had not given any other statement and he was also under the influence of medicines, so S.I.Lakshmi Chand gave information to New Delhi Railway Station Police Station which was recorded at Daily Diary No.2-A.

(9) S.I.PRAKASH Lal Khera, Public Witness 12, was deputed to investigate F.I.R. No.256/85 of Police Station New Delhi Railway Station. He reached the hospital but Satinder Singh was declared unfit to give the statement and he, again on 20th July 1985, reached the hospital and on Satinder Singh being declared fit to give the statement, he recorded his statement, copy of which is Ex.PW12/A. The information given by Satinder Singh, in brief, was that he and Amrit Pal Singh had

boarded a bus at New Delhi Railway Station at 9 P.M. for going to Srinivas Puri but as the bus reached near Super Bazar near Connaught Place, four unknown persons, who were perhaps acquainted with Amrit Pal, had picked up a quarrel with Amrit Pal and had dragged Amrit Pal down from the bus and Satinder Singh also came out of the bus and one of the said four persons was tall and strong built who gave a knife blow to Amrit Pal and as Satinder Singh intervened, that boy stabbed Satinder Singh in his abdomen on right side and also on the right leg and he also mentioned that other three boys were aged about 22 to 23 years and the fourth boy was aged about 28-30 years. He did not give any other description of the assailants.

(10) S.I.SATPAL Sharma, Public Witness 13, was deputed to inquire into the Daily Diary No.64-B and had reached the hospital on that very night and had obtained the M.L.C. of Amrit Pal and he recorded the statement of Amrit Pal, which is Ex.PW2/B. Amrit Pal, in that statement, had given the story that he had boarded a bus of Route No.450 from Karol Bagh and as the said bus stopped at New Delhi Railway Station at about 9 P.M, three boys boarded the bus and one of them was of strong built aged about 30 years having a defective eye and pupil of one of his eyes was having white colour and the other two boys were aged about 17 to 18 years and were strong built and he had noticed that one of the said boys was trying to pick the pocket of a passenger and he made that passenger conscious and at that time the one-eyed boy took out a kirpan and gave him a blow at his shoulder and thereafter the said three boys jumped out of the running bus and escaped and he did not want any action to be taken. These facts were incorporated by S.I.Satpal Sharma, Public Witness 13, in Daily Diary No.25-A, copy of which is Ex.PW13/B at 1.35 A.M.

(11) It appears that the officers of all these three police stations thereafter slept over the matter and no further action was taken till Satinder Singh succumbed to his injuries in the hospital on 26th July 1985.

(12) The F.I.R, which was registered at New Delhi Railway Station under Section 324 Indian Penal Code , was then transmitted to the Police Station Connaught Place and F.I.R. was recorded on the basis of the said F.I.R. in Police Station

Connaught Place as F.I.R. No.780/85 under Section 324 Indian Penal Code . Investigation of the case was then taken over by Satpal Singh. He held the inquest proceedings and thereafter investigation was taken over by Inspector P.N.Arora, Public Witness 29. He recorded the statements of Sarup Singh, Public Witness 1, Amrit Pal Singh, Public Witness 2 and Krishan Lal, Public Witness 23, the alleged eye witnesses of the occurrence and he also recorded the statements of other formal witnesses.

(13) On 28th August 1985, S.I.Bir Singh, Public Witness 30, had arrested Sham Sunder, accused and had required Sham Sunder to keep his face muffled as he was required to participate in the Test Identification Parade. On that very date, he was produced before Sh.P.K.Dham, Metropolitan Magistrate along with application, Ex.PW7/A and he was directed to be produced before Sh.G.P.Mittal, Metropolitan Magistrate who recorded in the proceedings that Sham Sunder had declined to participate in the Test Identification Parade and proceedings recorded by him in this respect are Ex.PW16/G and Public Witness 16/L.

(14) On 4th September 1985, S.I.Ranbir Singh, Head Constable of Police Station Madan Mohan Gate, had arrested Joginder under the Arms Act and thereafter, on getting information, S.I.Beer Singh formally arrested him and he was produced before C.J.M, Agra in muffled face and C.J.M. directed that he be produced before a Magistrate in New Delhi and thus, he was produced before Sh.P.K.Dham who marked the case to Sh.G.P.Mittal, Metropolitan Magistrate and this accused also declined to participate in any Test Identification Parade and the proceedings recorded in this respect are Ex.PW16/P to Public Witness 16/R.

(15) The accused Om Prakash himself surrendered in the Court of Sh.P.K.Dham, Metropolitan Magistrate on 13th September 1985 and he was sent to judicial lock up. On 16th September 1985, he was produced before the Magistrate but he also declined to participate in the Test Identification Parade and proceedings in this respect were recorded which are Ex.PW16/C to Public Witness 16/E.

(16) On 30th October 1985, accused Ravi had surrendered in Court and S.I.Beer Singh had moved an application for having Test Identification Parade in respect of this accused who was required to remain in muffled face. Sh.Rakesh Kapoor,

Metropolitan Magistrate, Public Witness -15, held the proceedings and again this accused declined to participate in any Test Identification Parade and the proceedings recorded in this respect are Ex.PW15/C and Public Witness 15/D.

(17) The learned Additional Sessions Judge has brought home the offences to the appellants on the testimony of three eye witnesses namely Sarup Singh, Amrit Pal Singh and Krishan Lal and had drawn adverse inference against the appellants on their refusal to participate in the Test Identification Parade without any sufficient cause.

(18) The learned counsel for the appellants have vehemently argued that in the present case, no reliance could have been placed on the statement of Public Witness 2, Amrit Pal Singh who had given different versions of the occurrence at different times. It is pointed out that in his first statement to the police, he had not given the narration of facts as have been given by Satinder Singh and his first statement would show that in the occurrence, in which he was injured, Satinder Singh was not involved and he had also not named any assailants in his first statement to the police. It is urged that Amrit Pal Singh had, after death of Satinder Singh, tried to come up with the version that in fact he very well knew Sham Sunder, assailant, as he and Sham Sunder had been in jail together and he went on to identify the other assailants in Court.

(19) It is pointed out that Public Witness 1 and Public Witness 23 have not been named as eye witnesses either by Satinder Singh, whom they very well knew, or by Amrit Pal Singh in their initial statements. It is alleged that if Satinder Singh had been given injuries in presence of his friends Public Witness 1, Sarup Singh, and Public Witness 23 Krishan Lal, it is highly improbable that they would have remained silent till the death of Satinder Singh and would not have narrated the facts to any one although they have stated that they have been visiting Satinder Singh in hospital and had been meeting Satinder Singh's relations. It is pointed out that the statements of these two witnesses have been recorded belatedly and thus no reliance should be placed on the statements of such witnesses who do not come forward to narrate the facts to the police promptly.

(20) It is also urged that the photographs of the culprits were shown to the witnesses even before the culprits were arrested and only a farce was being played by the Investigating Officer for getting the accused in muffled faces and pretending to hold Test Identification Parade. It is urged that the accused had rightly refused to participate in any such Test Identification Parade when witnesses had already been shown the photographs of the appellants and particularly when Amrit Pal Singh proclaims that he already knew Sham Sunder as he and Sham Sunder were together in jail at one point of time.

(21) It is also pointed out that the conduct of Public Witness 1, Sarup Singh and Public Witness 23, Krishan Lal was not natural that they would render assistance to Amrit Pal Singh in taking him to the hospital and would not bother about Satinder Singh who was more seriously injured and would leave him alone lying in pool of blood while they would take Amrit Pal Singh to the hospital and also leave him at the gate of the hospital and return to the spot and would not take any step to inform the police at any stage that they were the eye witnesses of the occurrence.

(22) The learned Additional Sessions Judge has also held that Public Witness 2 Amrit Pal Singh had deliberately not given correct version of the occurrence in his first statement but he went on to mention that perhaps Amrit Pal Singh was having fear of their assailants and although he knew one of the assailants very well, still he chose not to name him in his first statement. Public Witness 2, Amrit Pal Singh obviously is not a reliable witness. We have no assurance that what he has stated to the police later on or stated in Court after the death of Satinder Singh is more true than what he stated in his initial statement to the police.

(23) As far as dying declaration of Satinder Singh is concerned, it is of no help to the prosecution in proving the identity of the assailants. Even Amrit Pal Singh does not say in Court that he knew all the assailants whereas Satinder Singh had mentioned in his dying declaration that the four persons who were quarrelling with Amrit Pal Singh were known to Amrit Pal Singh.

(24) Krishan Lal, Public Witness 23 had pointed out Om Prakash accused as a person who had caused the stab injuries whereas the case of the prosecution is

that it is accused Ravi who gave the stab injuries to Satinder Singh as well as to Amrit Pal Singh.

(25) It is not possible to agree with the reasoning of the learned Additional Sessions Judge that Public Witness 1 Sarup Singh and Public Witness 23 Krishan Lal are not put up witnesses when we find that their statements came to be recorded on 28th July 1985 after the death of Satinder Singh and they claim to be very well known to Satinder Singh. They were friends of Satinder Singh, as they claim themselves to be, and were traveling in the same bus as Satinder Singh and Amrit Pal Singh when this occurrence took place. There is no reason why Satinder Singh would not have mentioned in his dying declaration that his friends Public Witness 1 Satinder Singh and Public Witness 23 Krishan Lal have also witnessed the occurrence. It is not the claim of these two witnesses that they had joined Satinder Singh and Amrit Pal Singh in any function or at any common place so that they could be together and travelled by same bus. It is too much of a coincidence that at the time of the occurrence, they also were incidentally present in the same bus in which Satinder Singh and Amrit Pal Singh were traveling without Satinder Singh becoming aware of their presence in the bus and more particularly, when all of them had got down from the bus when allegedly four assailants had attacked Satinder Singh and Amrit Pal Singh.

(26) Amrit Pal Singh had categorically admitted in his statement as follows:-

'IT is correct that the police of Pahar Ganj Police Station showed us a diary of bad characters of their police stations with their photos and amongst those photos, I identified the photos of all these four accused.'

(27) In view of this statement of Amrit Pal Singh, it is really preposterous to draw an adverse inference against the accused on their refusing to participate in any Test Identification Parade. At any rate, in view of the facts that Amrit Pal Singh, Public Witness 2, and Krishan Lal, Public Witness 23, have been reluctant witnesses as they had not at any time cared to tell the police prior to 28th July 1985 that they were the eye witnesses and that although they were very much known to Satinder Singh, still they were not mentioned as eye witnesses by Satinder Singh, it becomes difficult to place any implicit reliance on the statement

of such witnesses to bring home the offences to the appellants.

(28) We may mention that Sham Sunder had died during the pendency of his appeal (Criminal Appeal No.16 of 1989) which appeal was dismissed as abated vide order dated February 13, 1995.

(29) In view of the above discussions, we allow the appeals and set aside the conviction and the sentences of the appellants and acquit the appellants. The appellants are on bail. They need not surrender and their bail bonds are cancelled.

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