

Govind Singh Vs. State

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Court : Delhi

Decided On : Feb-11-2011

Judge : Pradeep Nandrajog; Suresh Kait, Jj.

Acts : Indian Penal Code (IPC) - Sections 302, 307, 304

Appeal No. : CRL. A. 59/1999

Appellant : Govind Singh

Respondent : State

Advocate for Def. : Mr.Pawan Sharma, Adv.

Advocate for Pet/Ap. : Mr.Bhupesh Narula, Adv.

Judgement :

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

1. It is the case of the prosecution that the complainant Ami Lal PW-10, father of deceased Ashok Kumar was residing at house No.2132, Katra Gokul Shah, Sita Ram Bazar, Delhi. 20/30 other families were also residing in the Katra. Babu Lal PW-11 was residing in the same Katra at premises No.2137 along with his sons Kamal Singh PW-1 and Charan Singh PW-15 and another son Avtar Singh.

Accused Govind Singh and his two sisters, accused Shanti and another sister Daya were residing in the same Katra at premises No.2132. Daya was blessed with a daughter Beena. Accused Jai Raj used to reside in the same Katra but had shifted. He was the brother-in-law of accused Shanti. Ashok Kumar a young man aged 23/24 years was infatuated with Beena aged 18-19 years and probably developed illicit relations with her. Whereas Govind and his sister Shanti wanted Bina to marry Ashok Kumar this was not acceptable to Ami Lal who was of the opinion that Bina being closely related to them, she should not marry Ashok Kumar.

2. Admittedly, at the trial, no evidence of any blood relation between the family of Govind, Shanti and Jai Raj with Ami Lal has emerged, but it appears to be a case where Ami Lal was a moralist who believed that all families living in a Katra are brothers and sisters and should not enter into any matrimonial relationship with each other.

3. This is the setting of the unfortunate incident which took place on 9.9.1987. Undisputedly, at the Katra, Ashok Kumar received a solitary stab wound on his chest resulting in his death. Kamal also received a stab wound on his chest which did not prove fatal.

4. Babu Lal, his son Kamal, who we note is injured and Charan Singh as also Ami Lal were cited at the trial as star witnesses of the prosecution and the impugned decision shows that learned Trial Judge has disbelieved Babu Lal and Charan Singh holding that there was enough evidence to suggest that the two were not eye witnesses as claimed by them. The injured eye witness Kamal and the other witness Ami Lal have been believed to be the eye witnesses to the incident and thus we propose to note the testimony of the injured eye witness Kamal Singh who was examined as PW-1.

5. As per Kamal, on 9.9.1987 i.e. the day of the incident, at about 7:45 PM he and Ashok were proceeding to their house when they met Ami Lal, Ashok's father, who was taking a bath at the public tap on the street. As they proceeded ahead, Jai Raj stopped them and beckoned Shanti and Govind who were standing on the roof of their house to come down. On coming down, Shanti exhorted Govind to kill him

and Ashok and at that Govind stabbed Ashok in the chest with a chura. When he tried to save Ashok, Govind stabbed him in his chest.

6. Relevant would it be to note that Kamal Singh ascribed no role to Jai Raj of his catching hold of either the deceased or him.

7. Ami Lal deposed on the same lines as Ashok but ascribed the role to Jai Raj of catching hold of the deceased.

8. Vide impugned judgment and order dated 30.9.1998, learned Trial Judge held that it appears to be a case of the witnesses of the prosecution overstating the incident by exaggerating the same. Qua accused Shanti it has been held that the circumstance of exhortation being a weak evidence and her role being only that of an exhortation would entitle her to the benefit of doubt and hence she has been acquitted of the charge of having murdered Ashok Kumar and having attempting to murder Kamal. A charge which was sought to be established against her with the aid of Section 34 IPC. Similarly, noting the discrepancy in the testimony of Kamal and Ami Lal; noting that Kamal ascribed the role of stabbing him and Ashok only to Govind gave similar benefit of doubt to Jai Raj. Govind has been convicted not only in view of the consistent testimony of Kamal and his father Ami Lal, but also for the reason after he was apprehended and as proved by Insp. Anil Kumar PW-21 he made a disclosure statement Ex.PW- 15/C and thereafter led the police to a place where the statue of Shivaji had been erected and hidden under a stone produced a Katar (Dagger) Ex.P-3 which was opined to be the possible weapon of offence and as per CFSL Report Ex.PY, human blood of the same group as that of the deceased was detected.

9. Appellant Govind has accordingly been convicted for the offence of having murdered Ashok and the offence of having attempted to murder Kamal. Vide order on sentence dated 6.10.1998 Govind has been sentenced to undergo imprisonment for life and pay fine in sum of `500/-, in default of payment of fine to under RI for one month for the offence punishable under Section 302 IPC and to undergo imprisonment for 3 year and pay fine in sum of `500/- for the offence punishable under Section 307 IPC, in default of payment of fine he has been directed to undergo RI for one month.

10. But, the question would be, whether keeping into account the backdrop of the circumstances which led to the incident in question, what could be the possible intention which could be ascribed to Govind.

11. As per the testimony of the witnesses, which has formed the backdrop of the events, it is apparent that Ashok and Beena had no problem in getting married. Govind and Shanti were wanting Ashok to marry Beena. Unfortunately Ami Lal was the stumbling block. It is apparent that there was a loss of face in the family for the reason Beena's reputation and family honour was at stake but it has to be kept in mind that deceased Ashok had no problem in marrying Beena. It is apparent that since Ashok's father was not agreeing to the marriage, Govind must have got incensed on seeing Ashok and Kamal outside his house and the fact that he only attacked them once each, shows that the probably intention was to cause a grievous injury to both of them and no more.

12. Solitary stab wounds have always been a source of consistent judicial debate and we need not note the fact that many Hon'ble Judges have consistently taken the view that single stab wounds would not attract the commission of the offence of murder and some have taken a view to the contrary. We do not intend to make a catalogue of various judgments on the point but would certainly highlight that the backdrop circumstances of the each case has to be kept in view. More often than not, it is the backdrop circumstance which helped the Courts in resolving the deadlock.

13. Keeping in view the backdrop of the incident the instant case compels us to hold that the offence committed by Govind qua the injury caused to Ashok is an offence of culpable homicide not amounting to murder punishable under Section 304 Part I IPC. We maintain the conviction for the offence of having attempted to murder Kamal.

14. We may note that by the time Govind was admitted to bail by this Court his nominal roll shows that he had undergone actual imprisonment for about 11 years and 9 months and thus we feel that the ends of justice would be met if he is directed to undergo imprisonment for the period he has already undergone.

15. It may be noted that the incident which took place on 9.9.1987 has culminated today where we have been able to decide appeal after little over 23 years of the unfortunate incident.

16. We leave it at that.

17. In view of our decision today, Govind has to suffer no further imprisonment for the offence committed by him and since he is on bail, we discharge the bail bond and surety bonds furnished by him.

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