
(1994) 12 P&H CK 0049

In the Punjab And Haryana At Chandigarh

Case No : Murder Reference No. 3 of 1994 and Criminal Appeal No. 189-DB of 1994

State of Haryana

APPELLANT

Vs

Karam Singh

RESPONDENT

Date of Decision : 14-12-1994

Acts Referred:

Citation : (1995) 2 RCR(Criminal) 93

Hon'ble Judges : K.K.Srivastava, J and J.B.Garg, J

Advocate : D.S. Bishnoi, M.J.S. Waraich, R.S. Cheema, Advocates for appearing Parties

Judgement

J.B. Garg, J.

1. Karam Singh and his two other companions Mewa Singh and Mohan Singh have been convicted under Sections 302/34 of the Indian Penal Code on 1.4.1994. Out of them, Karam Singh son of the deceased, Man Singh, has been sentenced to death and his other two companions, Mewa Singh and Mohan Singh, were sentenced to imprisonment for life. This murder reference has, thus, been received in this case of patricide from Shri K.K. Chopra, Additional Sessions Judge, Ambala. Besides this, they have also attempted an appeal against their conviction.

2. Briefly, the story of the prosecution is that at about 4.15 P.M. on 7.6.1989 Karamjit Singh (PW3), his brother Kaka Singh (PW5) and their mother Jaspal Kaur (PW4) were returning from their field situated adjacent to Jalbera Road after planting paddy saplings. When they were almost on the main road, they noticed Karam Singh catching hold the father Man Singh with the help of two companions Mewa Singh and Mohan Singh and thereafter, Karam Singh caused multiple injuries with a Knife on chest, abdomen, shoulder, elbow, arms etc. of his father Man Singh. As a consequence of the aforesaid multiple injuries, Man Singh fell on the ground and the blood also fell there. The motive for this occurrence of patricide was that Man Singh had five sons including Karam Singh,

now appellant, who is the eldest. He had been residing separately for the last about five years and he had also been claiming his specific share and in this regard, he also instituted a Civil Suit against his father Man Singh. Some time back, there were also proceedings under Section 107/151 of the Code of Criminal Procedure qua Karam Singhappellant. Karam Singh along with his knife and the other two companions made good his escape. Karamjit Singh proceeded to Police Station Sadar Ambala for lodging the First Information Report whereas Jaspal Kaur, the wife, and Kaka Singh, the other son, remained near Man Singh deceased. On the instatement of Karamjit Singh, the First Information Report was recorded by Shri Jai Ram, Sub Inspector at Police Station Sadar Ambala at 5.05 P.M. and soon thereafter, the "special report reached the Ilaga Magistrate at Ambala at 6.45 P.M. the same day. Shri Jai Ram, Sub Inspector, arrived at the place of occurrence and collected blood stained earth and converted it into a sealed packet. Bicycle of Man Singh was lying nearby was also taken into possession. The dead body was despatched for the purpose of postmortem examination and the statements of other two eye witnesses Jaspal Kaur widow of the deceased and Kaka Singh, another son of the deceased, were recorded. Karam Singh, the principal accused was arrested on 11.6.1989 whereas the other two accused Mewa Singh and Mohan Singh were kept in column No. 2 of the report under Section 173 of the Code of Criminal Procedure and they also appeared in the Commitment Court.

3. PW2 Dr. G.P. Saluja, the Senior Medical Officer of General Hospital, Ambala City, conducted the postmortem examination on the dead body of Man Singh son of Narain Singh, aged 55 on 8.6.1989 and the injuries found on the person of the deceased were as under :

1. Incised elliptical wound 2 x 1/2 cm on the left side of chest 14 cm below the nipple. It was muscle deep.
2. Incised wound 2 1/2 cm on elliptical in shape on the left side of abdomen 6 cm from middle and 8 cm below from injury No. 1. Exploration of the wound revealed that it was directed downward and midly. There was corresponding wound in the transverse colon and mesentery vessel were also injured.
3. Elliptical incised wound 2 x 1/2 cm just left to mid line on the abdomen. It was 3 cm above the umbilicus. Piece of omentum was also seen coming out. Exploration revealed that it was also directed downward and opening, into the peritoneal cavity.
4. Elliptical incised wound measuring 2 x 1/2 cm on the left growing 8 cm from mid line. Omentum was also seen coming out. It was also entering the peritoneal cavity.
5. Incised elliptical wound 3 1/2 inch x 1.5 cm wound muscle deep on the front of left arm 7 cm below the axilla.
6. Incised elliptical wound 1 x. 2 cm transversally placed skin deep on the back

of left upper arm 7 cm below shoulder joint.

7. Incised elliptical wound 2 x 1/2 cm on the back of left upper arm 10 cm below axilla. It was obliquely placed muscle deep.

8. 1 x 1/2 cm incised elliptical wound on the back of left arm 2 cm below axilla. It was skin deep.

9. Incised elliptical wound 3 cm x .2 cm on the back of left arm 5 cm below elbow joint and was transversally placed.

10. Incised elliptical wound 2 x 1/2 cm on the back of chest on the left side 8 cm from middle and 3 cm below colour area. It was skin deep.

11. Incised elliptical wound 2 x 1/2 cm in the eligastic region 5 cm below the coastal margin. It was vertically placed and was muscle deep. It was on the right side of abdomen.

12. Incised elliptical wound 2 x 1/2 cm oblically placed 1/2 cm below injury No. 11 on the right side of abdomen and was muscle deep.

13. Two incised elliptical wounds 2 x 1/2 cm on the right side of abdomen 1/2 cm ouster to injury No. 12. It was muscle deep.

14. Incised elliptical wound 2 x 1/2 cm on the right side of abdomen 2 cm ouster to injury No. 11 and was muscle deep.

15. 1 x 1/2 cm incised elliptical wound 2 cm ouster to injury No. 14 on the right side of abdomen and was muscle deep.

16. 2 1/2 x 1 cm on the right side of abdomen in the groin region 5 cm from mid line. It was muscle deep,

17. 2 1/2 cm incised elliptical wound on the right side of neck. 5 cm above the clavical and 1 1/2 cm from middle. It was directed upward and medially and was muscle deep.

18. 2 x 1/2 cm incised elliptical muscle deep on the right side of neck. 5 cm from mid line and 3 cm above the clavical. It was oblically placed.

19. Incised elliptical wound 2 x 1/2 cm into muscle deep on the right side of neck 1 cm above injury No. 17 which was oblically placed.

4. The Medical Officer opined that the death was on account of shock and haemorrhage and especially on account of damage to large intestine which was the result from injury No. 2.

5. He also opined that the injuries could be caused with knife, Exhibit P5.

6. PW1 Sarwan Singh, Patwari, prepared the site plan, Exhibit PA.

7. PW3 Karamjit Singh aged 30 is the complainantson, who was an eye witness to the entire occurrence and he described in the Court that he, his brother, Kaka

Singh and his mother Jaspal Kaur were returning from the field at about 4 P.M. and when they reached AmbalaJalbera road, they saw that fatherMan Singh was returning from Ambala and was on the road towards their village Saunda and it was at the time that Karam Singh, their brother who was armed with a knife along with his two companions Mewa Singh and Mohan Singh emerged from a nearby pit. Out of the three, Mewa Singh and Mohan Singh caught hold of the father and caused knife injuries on his belly and neck etc. He denied that the accused have been implicated on account of inimical relations. He also denied that his father did not have cordial relations with several other residents of village such as, Joginder Singh and Amarjit Singh etc.

8. PW4 Jaspal Kaur was also an eye witness to the occurrence. She told that she had brought meals a little after 1 P.M. to the field. She was also present when her sons continued planting saplings after taking their meals. The empty utensils which she was carrying on the returning journey, fell on the ground when he was running towards her husband who was being inflicted knife injuries by her own son, Karam Singh, with the aid of his two companions.

9. PW5 Kaka Singh, a younger brother of the complainant and son of the deceased, is the third eye witness who also supported the story of the prosecution in the trial Court. He denied that it was a case of blind murder or that the dead body of his father was noticed at 6.15 P.M. on the road side.

10. PW6 Suraj Bhan, Assistant Sub Inspector, was a formal witness who recorded the statement of Shri Sarwan Kumar, Patwari.

11. PW7 Shri Jai Ram, Inspector, who was the Sub Inspector and Station House Officer of Police Station Sadarv on the day of occurrence was also examined and he proved the First Information Report which was lodged by Karamjit Singh (PW3), an eye witness and son of the deceased. It was thereafter that he proceeded to the place of occurrence and he also took into possession the blood stained earth from the place of occurrence and also examined Jaspal Kaur and Kaka Singh, the other two eye witnesses. He ultimately arrested Karam Singh on 11.6.1989. However, during investigation, he was not satisfied regarding participation of Mewa Singh and Mohan Singh, the other two accused, who were unarmed and their names were mentioned in column No. 2 of the challan by this Investigating Officer.

12. Karam Singh was examined under section 313 of the Code of Criminal Procedure in the trial Court. He told that on account of enmity between him and his brothers and the mother who wanted to deprive him of his share in the property, he has been implicated and he had no connection with the other two coaccused Mewa Singh and Mohan Singh.

13. Mohan Singh was examined under section 313 of the Code of Criminal Procedure in the trial Court and the relevant part of his statement was as under :

"I am innocent. I have been falsely involved in this case. Charanjit Kaur filed a

criminal complaint against Karamjit Singh and Rajinder Singh under Sections 354/323/452/506 IPC which is pending trial and it was pending since before the day of occurrence. In this case Karamjit and Rajinder Singh stand summoned. I deposed against them. A civil litigation relating to correction of girdawari entries was also going on between Man Singh deceased and Karam Singh accused. In it grandfather of Mewa Singh deposed in favour of Karam Singh. Due to above said reason the complainant party had grudge against me and falsely involved me. I was not present at the time of occurrence. It had reached the spot at 5.30 P.M. Dead body was lying there. Police was also present near the dead body. I had gone to village Machhondi with Amarjit Singh, Joginder Singh on a tractor trolley to see my ailing aunt (sister of my father). I had gone at 11.30 A.M. and returned from village Machhondi at 5.30 P.M."

14. The relevant part of the statement of Mewa Singh son of Shri Dharam Singh recorded under section 313 of the Code of Criminal Procedure was as under :

"I am innocent. I was not present at the time and place of the alleged occurrence. I was serving sweet water to the public on the day of occurrence as it was Guru Arjan Dev Shahidi Day and I was deputed by President of the Gurdwara Committee to serve water to the public. I served water to the public from 9.00 A.M. to 6.00 P.M. on 7.6.1989. My father Mehar Singh had appeared as a witness for Karam Singh accused in the girdawari proceedings against Man Singh deceased. For this reason Karamjit Singh and Kaka Singh PWs and their mother have appeared against me and made false statement. The police investigated this case and recorded the statement of Harnek Singh, President of the Local Gurdawara Committee and found me innocent."

15. The occurrence took place at about 4 P.M. in summer on 7.6.1989 in the broad day light. The Police Station Sadar Ambala is scarcely at a distance of 2 Kilometres from the place of occurrence and Karamjit Singh, the complainantson of the deceased, who was an eye witness to the occurrence, lodged the First Information Report which was recorded at 5.05 P.M. and the "special report" reached the Ilaqa Magistrate at 6.45 P.M. We have ourselves seen the time and the signatures of the Ilaqa Magistrate on the original First Information Report from the record and the evidence referred to above established that it was a case where the First Information Report was lodged with promptness. This could not be assailed by the learned counsel for the appellants.

16. There had been a dispute regarding land. Karam Singh, the appellant, had filed a civil suit for partition which was stated to be pending at Ambala City. This fact finds mention in the First Information Report and it has not been controverted at any stage. The presence of the mother who had come with meals for her two sons who were planting paddy and their return together after doing day's work in their own field at 4.15 P.M. was natural. It was a coincidence that Man Singh father was coming from Ambala on his bicycle and returning to village Saunda. He was way laid by Karam Singh who was armed with a knife and started inflicting injuries on his chest, shoulder and neck and thereafter, at

abdomen etc. resulting in his death.

17. The learned counsel for the appellants could not point out any important discrepancy to shake the evidence of complainant Karamjit Singh and his brother Kaka Singh and the mother Jaspal Kaur. Besides this, there was no reason for Jaspal Kaur, the mother, to depose against her own son Karam Singh. Karam Singh had a grievance regarding a specific share in the land in respect of which he had instituted a civil suit and this was the motive. Coming to the quantum of sentence in this murder reference. Mr. R.S. Cheema, the learned counsel for the appellants has referred to *Bachan Singh v. State of Punjab*, AIR 1980 Supreme Court 898 and stressed that the Courts inflicted extreme penalty with extreme infrequency. Here the immature son put an end to the life of his own father though other litigation regarding his rights in property was pending. It cannot be considered to be the rarest of the rare cases. Besides this, attention has also been invited to *Machhi Singh and others v. State of Punjab*, AIR 1983 Supreme Court 957, wherein the two tests have been laid down and these were as under :

"(a) Is there something uncommon about the crime which renders sentence of imprisonment for life inadequate and calls for a death sentence ?

(b) Are the circumstances of the crime such that there is no alternative but to impose death sentence even after according maximum weightage to the mitigating circumstances which speak in favour of the offender ?

The circumstances in this case, as seen above, could not indicate that the imprisonment for life was inadequate. This contention could not be controverted by the learned Deputy Advocate General for State of Haryana.

18. The conclusion is that the finding of the guilt and the conviction of Karam Singh under section 302 of the Indian Penal Code is affirmed. However, as regards the sentence, we are of the considered view that it is not a rare amongst the rarest cases attracting the extreme penalty of death. Consequently, the sentence of death qua Karam Singh is hereby altered to one of imprisonment for life and subject to this alteration in the sentence, the appeal qua Karam Singh is hereby dismissed and the murder reference is also declined.

19. As regards Mohan Singh and Mewa Singh appellants who were unarmed and who had no motive nor they caused any injury to Man Singh and whose presence at the time of occurrence was not free from doubt and this was the reason that their names were placed in column No. 2 by the Investigating Officer and consequently, their conviction under sections 302/34 of the Indian Penal Code recorded by the trial Court is hereby set aside and these two are hereby acquitted and the appeal stands disposed.