
(2011) 12 SHI CK 0146
In the High Court Of Himachal Pradesh
Case No : Criminal A. No. 381 of 2003

State of Himachal Pradesh

APPELLANT

Vs

Prem Pal Singh and others

RESPONDENT

Date of Decision : 07-12-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378
Penal Code, 1860 (IPC) — Section 147, 148, 149, 302, 323

Citation : (2011) 12 SHI CK 0146

Hon'ble Judges : V.K. Ahuja, J;Deepak Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Justice V.K. Ahuja, J.—This is an appeal filed by State of Himachal Pradesh u/s 378 of the Cr.P.C. against the judgment of the court of learned Additional Sessions Judge, Hamirpur, dated 26.4.2003, vide which he acquitted the respondents of the charge framed against them under Sections 147, 148, 149 read with Sections 302, 323 and 325 IPC.

2. Briefly stated, the facts of the case are that on 19.1.2002, a telephonic message was received from Kishori Lal, Pradhan, Gram Panchayat Anu Kalan, that a quarrel had taken place at Village Anu Kalan in which one Desh Raj had suffered injuries. This message was recorded by the MHC in rapat Ext.PW-9/A. Shri Suresh Kumar, SHO, Police Station, Hamirpur, PW-27, proceeded to the spot and therein recorded the statement of Vishal Thakur, PW-1. In the said statement, it was alleged that on 13.1.2002, Prem Pal Singh, one of the accused and Charan Singh, PW-5, had some quarrel, which was brought to the notice of Desh Raj deceased by Charan Singh. He alongwith Desh Raj summoned Prem pal to ascertain as to why they had quarreled with Charan Singh. On this, some dispute took place between them and Desh Raj cautioned accused Prem Pal not to have any quarrel in future with Charan Singh. On 19.1.2002, he and Charan Singh were going to attend a Panchayat meeting and at about 10.30 a.m., when

they reached near the house of PW-7 Satya Parkash, Prem Pal was found sitting outside his house, who immediately called Pawan Kumar, one of the accused. The other accused persons also gathered there with iron rods and started asking Desh Raj as to why they had a quarrel on 14.1.2002. Thereafter, Prem pal and Pawan Kumar, who were having iron rods, started giving blows with iron rods on the head of Desh Raj and when PW-1 Vishal Thakur intervened to rescue Desh Raj, he was also given beatings with rods by all the accused persons. He was also given beatings with fists and kick blows. They raised an alarm and several persons gathered there and he and Desh Raj were taken to the hospital and the accused persons ran away. It is in evidence that Desh Raj died as a result of the injuries suffered by him and after investigation, the challan was filed before the learned Chief Judicial Magistrate, Hamirpur, who committed the case to the court of the learned Sessions Judge, from where it was assigned to the learned trial Court, who tried the respondents under the aforementioned Sections leading to their acquittal.

3. We have heard Mr.Rajesh Mandhotra, learned Deputy Advocate General for the appellant-State and Mr.M.S. Guleria, Advocate, for the respondents, and have gone through the record of the case.

4. On appraisal of the record of the case, it is clear that the prosecution had examined 28 witnesses to substantiate their case. The most material witness can be said to be PW-1 Vishal Thkaur, injured, who made statement to the police on the basis of which the case was registered. It is in his evidence that as soon as they passed through the house, Prem Pal shouted and on hearing his shouts, the other accused persons armed with iron rods and axes came out of the quarter. Thereafter, some altercation took place and Pawan hit Desh Raj with iron rod on his head. Prem Pal also hit Desh Raj with the rod on his head. When he tried to rescue Desh Raj, they all gave him beatings with rods and kick and fist blows. He sustained injuries on the left arm and left leg, while Desh Raj sustained injuries on the head and he fell down and on hearing his cries several persons, namely, Charan Singh and Arjun Singh came to the spot and accused persons ran away. He stated that he can identify the persons who gave him beatings. He further stated that they are the accused persons present in the Court. He, however, did not name all the accused persons or identified all the accused persons by their faces pinpointing to each of the accused. He stated that he cannot say that in which capacity he and Desh Raj called Pawan and Prem Pal, when Charan Singh complained about his beating. He denied the suggestion that they are Gunda type persons of the village and, therefore, they had summoned Pawan Kumar and Prem Pal. He admitted that he had no work in the Panchayat on that day. He admitted that he had gone to the house of Desh Raj of his own and Satya Parkash was present at his house while Prem Pal was basking in the Sun. He stated that the witness of the spot was only Satya Parkash. He admitted that Prem Pal and Pawan Kumar, accused, had also suffered injuries and these were inflicted by him. He stated that he cannot say if Desh Raj had pelted bricks and stones on the accused persons. This clearly shows that a free fight took place in

between the parties and two of the accused persons also suffered injuries and this witness admitted that some of the injuries were inflicted by him, while others were inflicted by Desh Raj, now deceased. He stated that he cannot say as to how many blows were given to him and the deceased. He had not identified the weapon of offence. He also admitted that he made Prem Pal to hold his ears under his legs and also gave beatings to him, which clearly suggests that it may be one of the causes of the quarrel. He admitted that he had given beatings to Prem Pal and also made him to hold his ears because of Charan Singh. He denied his knowledge in case Desh Raj had suffered injuries from bricks. He further stated that Dharamvir accused was not at the spot.

5. The statement of PW-1 Vishal Thakur shows that one Charan Singh and Arjun Singh came to the spot on hearing the cries. The said Charan Singh has been examined as PW-5, who stated that there was a quarrel in between him and Prem Pal on the day of Lohri. Desh Raj learnt about it and Prem Pal was called by Desh Raj and Vishal, but he did not come. Next day, Chhotu and Vishal caught hold of Prem Pal and gave him beatings. Satya Parkash and Sarwan came there, who were abused by Desh Raj. They had come to rescue Prem Pal. He stated that on the day of occurrence, he was told by Chhotu that he had been beaten by Satya Parkash and Prem Pal. He stated that he found Desh Raj lying in an injured condition and none was there. They carried Desh Raj to the hospital. He stated that Vishal Thakur, PW-1, did not tell them as to how Desh Raj sustained injuries and who caused it.

6. PW-7 Satya Parakash has stated that Vishal and Manoj Kumar came to the room of Prem Pal and took him away by holding him from his neck. Vishal gave beatings to Prem Pal and Up-pradhan rescued him and told him not to give beatings and a compromise was effected. However, on 19.1.2002, Vishal and Desh Raj came outside the room of Prem Pal and Vishal started quarreling with Prem Pal and Pawan Kumar. He went to inform the Pradhan and when he returned, he saw 2-3 persons running away and Desh Raj was lying there and blood was oozing out of his head.

7. PW-8 Jamna Devi was also examined as an eye witness, who was not named by PW-1 Vishal Thakur. She stated that 7-8 Bhaiyas armed with iron rods came there and Desh Raj sustained injuries on his head. However, she does not know, who caused it. Shalu came running to her shop to pick up a bench, but she did not permit him to take the same. Then Shalu went towards the Bhaiyas and he was also given beatings. She stated that she does not know who started the quarrel. She also stated that she did not see Satya Parkash at the spot and Chhotu was also not present there. She stated that Prem pal and Pawan Kumar were not armed at that time.

8. PW-11 Arjun Chaudhary, who was also cited as an eye witness, has stated that at about 10.30 a.m. on 19.1.2002, when he was going after Desh Raj, Shalu came running and told him that Desh Raj had been killed by the Bhaiyas. He ran towards the spot and saw that many persons were running downwards and Desh

Raj was lying on the ground. He clearly stated that he did not see the occurrence.

9. The statements of other witnesses are not very material.

10. It is clear from the above discussion that PW-1 Vishal Thkaur, one of the injured, had named two persons, who came to the spot, but Smt. Jamna Devi was also examined as an eye witness and all of them have not corroborated the version given by PW-1 Vishal Thakur as to who were the persons, who gave beatings to him and deceased Desh Raj. It is in evidence from the statement of the injured himself that the accused persons were also inflicted blows. This clearly shows that it was a case of free fight only. The identity of the accused persons, who inflicted the blows upon the person of the deceased and one of the injured, was also not established from the statements of the prosecution witnesses. The learned trial Court had referred to the evidence in detail and had come to the conclusion that the guilt of the accused persons was not established and those findings cannot be termed as perverse calling for an interference by this Court.

11. In view of the above discussion, we accordingly hold that there is no merit in the appeal filed by the appellant, which stands dismissed. Bail bonds furnished by the respondents shall stand discharged.