



IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 760 OF 2022

RAM MANOHAR SINGH

APPELLANT(S)

VERSUS

THE STATE OF UTTAR PRADESH

RESPONDENT(S)

JUDGMENT

ABHAY S. OKA, J.

1. The appellant is accused No. 1. The Trial Court convicted the appellant for the offence punishable under Section 302 of the Indian Penal Code, 1860 (for short "IPC") simplicitor and the High Court has confirmed the conviction and life sentence of the appellant.

2. In brief, the prosecution case is that the dispute arose over plucking mango trees. On 24.04.1982, co-accused-Raja Bhaiya Singh and Bhujwal Singh had gone to pluck fruits from mango trees. They met with an obstruction by Shiv Mohan Singh @ Dadu (the deceased). There was an exchange of hot words. On 25.04.1982 at 03:00 P.M., the incident re-occurred when the two co-accused tried to pluck the fruits which again led to exchange of abusive and filthy words. Further allegation is that at 06:00 P.M., on the same day, the present appellant and accused No. 2-Ram Khilawan Singh armed with their licensed guns and co-accused-Bhujwal Singh and Raja Bhaiya Singh with a spear came to the house of the complainant-Raj Lalan

Singh(PW-1), the uncle of the deceased. They challenged PW-1 to come out of his house. Again, an altercation took place between them and there was an exchange of abusive and filthy words. The allegation is that the appellant and the accused No. 2 fired gunshots from the small window of the house. The bullet injury caused by the appellant led to death of Shiv Mohan Singh @ Dadu. The gunshots fired by accused No. 2 caused the injury to Rajendra Singh (PW-2) and Rani Devi (PW-1's daughter). PW-2 is the father of the deceased.

3. In support of the appeal challenging the concurrent judgments of conviction, the learned counsel appearing for the appellant submitted that the entire incident cannot be believed. He pointed out that according to the prosecution case, only one gunshot was fired from the gun of accused No. 2 but, it is claimed that it resulted into seven injuries on the persons of PW-2 and PW-1's daughter Rani Devi. He also pointed out that Rani Devi was not examined by the prosecution. He further submits that the prosecution story is highly unreliable. Without prejudice to the aforesaid contentions, he urged that in this case, Exception 4 to Section 300 of IPC will squarely apply. He pointed out that prior to the incident, there were two altercations between the members of the family over the incident of plucking of fruits. The co-accused Bhujwal Singh and Raja Bhaiya Singh were involved in the incident and the reason of the said incident was that the deceased obstructed them from plucking the mango fruits. He submitted that going by the testimony of PW-1 and PW-4, it is apparent that for a period of 10-15 minutes, there was a heated exchange of abusive

words. He submitted that, obviously, the appellant had no intention to kill the deceased and perhaps, he visited the house of the deceased to question the conduct of the deceased. His submission is that the act committed by the appellant is without premeditation in the heat of passion due to a sudden fight. He submitted that Exception 4 to Section 300 IPC will squarely apply. He submitted that on this issue, a point for determination was framed by the Trial Court which was not unfortunately answered. However, some of the findings of the Trial Court support his contention that Exception 4 to Section 300 IPC was applicable. The learned counsel further submitted that there was no recovery of any gun at the instance of the appellant.

4. The learned counsel for the respondent urged that there was no prior enmity between the two groups. She also pointed out that there is a relationship between the family of the appellant and the injured Rani Devi. She supported the impugned judgments.

5. Both the Trial Court and the Appellate Court have believed the ocular evidence of PW-1 to PW-4. The medical evidence shows that it was the gunshot injury which led to the death of the deceased. In fact, during post-mortem, it was found that there were 23 pellets in different wounds on the dead body.

6. We have carefully perused the evidences of the eye-witnesses and find that the witnesses are very consistent on their version in respect to the role played by the appellant of causing gunshot injury to the deceased. Once the Court believes the testimony of the eye-witnesses, the failure to recover the gun used by the appellant, is not at all significant. Therefore, we have no manner

of doubt that there was sufficient evidence to indicate that it was the appellant who caused gunshot injury to the deceased which led to his death. The non-examination of Rani Devi does not, in any manner, adversely affects the case of the prosecution, as against the appellant.

7. Now, we come to the issue whether Exception 4 to Section 300 IPC will apply in this case. There are many material circumstances which militate against the theory of applicability of Exception 4 to Section 300 IPC. Firstly, the appellant was not involved in earlier two incidents which occurred when co-accused tried to pluck fruits. When the appellant visited the house of the deceased, the appellant was carrying his licensed gun. He went there with the object of questioning the act of the deceased. Therefore, there was no reason for the appellant to carry his licensed gun with him. Secondly, he fired the licensed gun through the window of the house of the deceased, which led to the death of the deceased who was inside the house. If there was no premeditation, the appellant would have not carried his gun with him to the house of the deceased. It cannot be said that there was a sudden quarrel as there was a background of quarrel which took place on the same day between the co-accused and the deceased and, on the earlier day between the same co-accused and the deceased. Moreover, it cannot be said that the appellant did not act in a cruel manner. In the facts of the case, as narrated above, only after a trifle quarrel over plucking of fruits, the appellant fired a gunshot from the window of the house of the deceased.

8. In the circumstances, it is not possible to accede to the submission made that Exception 4 to Section 300 will apply.

9. In view of the above, we find no merit in this case. Hence, the appeal fails and is, accordingly, dismissed.

10. As the appellant is on bail, we grant time of one month to him to surrender before the Trial Court for undergoing the remaining sentence.

11. Pending application(s), if any, shall stand disposed of.

..... J.  
[ABHAY S. OKA]

..... J.  
[PANKAJ MITHAL]

NEW DELHI;  
AUGUST 24, 2023.