

**APPELLATE CRIMINAL.***Before Young C. J. and Monroe J.***BACHNA AND ANOTHER—Appellants***versus***THE CROWN—Respondent.****Criminal Appeal No. 1213 of 1936.**

*Murder — Accused armed with spears — refraining from using sharp-end — but beating the victim to pulp with the lathi-part — whether guilty of murder.*

*Held*, that where people, as in this case, kill a man by beating him on all parts of the body with weapons like *lathis* the inevitable inference is that they intend to kill, or know that such a beating is likely to cause death, and they are guilty of murder.

*Appeal from the order of Mr. S. M. Haq, Sessions Judge, Ferozepore, dated 17th October, 1936, convicting the appellants.*

MEHTAB SINGH, for Appellants.

M. SLEEM, for Government Advocate, for Respondent.

The judgment of the Court was delivered by—  
YOUNG C. J.—Bachna and Balu, together with two others, are alleged to have murdered a *Brahman* named Plast Ram. Bachna and Balu were tried by the learned Sessions Judge of Ferozepore and sentenced to death. The other two were not known and were not before the Court.

This murder took place in the early morning of the 19th June, 1936. Plast Ram, his brother Paras Ram, and a *siri* of theirs, named Ali Bakhsh, proceeded to their field carrying manure from the village. They started just before sunrise and had taken one-load of manure to the field and emptied it and were returning when, it is alleged, the two accused and the two others attacked them from a graveyard. Bachna

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and Balu were armed with spears, that is *lathis* with attachable spearheads. They prodded Plast Ram with the spears while he was sitting in the cart. He then jumped out and ran away. They pursued him and caught him in a very short space and then proceeded to give him a most merciless beating. They were careful, after the prodding in the cart, however, to use their spears as *lathis*.

The evidence consists of that of four eye-witnesses: Paras Ram and Ali Bakhsh, who were in the cart with Plast Ram, and two other villagers, Sandhura and Giddar, who were also engaged in manuring their fields that morning and who say that they saw the whole occurrence.

The general criticism of counsel in this Court is that these witnesses were not at the scene of the occurrence, that Dalip Singh, the Zaildar, is an enemy of Bachna because, counsel alleges, Bachna beat Dalip Singh, and that Dalip Singh and Jowala, another enemy, have concocted this whole story and produced these witnesses. We may say at once that there is no foundation for this allegation against the Zaildar. There is no proof on the record that Bachna ever beat the Zaildar. In any event Paras Ram and Ali Bakhsh both would probably be with Plast Ram engaged in manuring their fields. We see no reason to doubt that Paras Ram and Ali Bakhsh were with Plast Ram in the cart. No cause has been proved for Sandhura and Giddar to give false evidence in this case against Bachna and Balu. We are satisfied, therefore, with the evidence of all the four eye-witnesses.

Counsel has made a great point that the spear-wounds are only four out of more than forty injuries, but it is perfectly clear to us what happened. Paras

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Ram, who was certainly in the cart, and who says himself that he was injured—and this is corroborated by the medical evidence—says that Bachna and Balu gave spear thrusts while Plast Ram was still in the cart. Those were the only thrusts, in our opinion, which were made by the sharp ends of the spears. The medical evidence shows that Plast Ram received punctured wounds in the legs. He was obviously speared in that fashion in order to get him out of the cart. Once he was out of the cart the rest of the injuries were given with the *lathi* part of the spears.

Counsel also alleges that this murder took place in the dark and that, therefore, no one knew who were the murderers. We see no reason to doubt the evidence that it was just about sunrise, which is the time when normally in the hot weather, in June, villagers would be engaged in their agricultural pursuits.

Lastly counsel has argued that this is not a case of murder under section 302. He has reproduced to us the argument, which we unfortunately frequently hear in this Court and which we never accept, that where men armed with weapons like spears refrain from using the sharp-end, but beat to pulp the victim with the *lathi*-end, they cannot be found guilty of murder. This type of beating is used in this Province merely to give occasion for this kind of argument. Where people, as in this case, kill a man by beating him on all parts of the body with weapons like *lathis*, the inevitable inference is that they intend to kill or know that such a beating is likely to cause death.

We, therefore, agree with the conviction of these two accused. There is clearly no reason to interfere with the sentences which we confirm.

A. N. C.

*Appeal dismissed.*