

The State of Madhya Pradesh Vs. Rajendra Kumar @ Kallu

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Court : Madhya Pradesh

Decided On : Sep-18-2013

Appellant : The State of Madhya Pradesh

Respondent : Rajendra Kumar @ Kallu

Judgement :

M.Cr.C.No.11526/2011.

18.09.13 Per B.D.Rathi,J Shri S.K.Kashyap, Government Advocate for the applicant-State.

Heard on admission.

This application for grant of leave to appeal has been preferred under Section 378(3) of the Code of Criminal Procedure (hereinafter referred to as the Code.) being aggrieved with the judgment dated 05/07/2011 passed by the Session Judge, Raisen, in Sessions Trial No.64/2010 whereby respondent Nos.1 to 4 namely Rajendra Kumar, Akhil alias Nikki, Nikhil alias Teenu and Beer Singh have been acquitted of the offence punishable under Section 307/34 of the Indian Penal Code (IPC).

for short) and respondent Nos.3 and 4 have also been acquitted of the offence under Section 325 read with 34 of the IPC, but respondent nos.1 and 2 have been convicted under Section 325 read with 34 of the IPC and sentenced accordingly.

Prosecution case, in brief, is that on 2/11/2009 at about 2.00 pm, respondents in furtherance of their common intention, attempted murder of Ishwar Singh by trampling him under their Tractor and also caused injuries to him by beating him with Lathis.

Learned Government Advocate submitted that the impugned judgment was passed without proper appreciation of evidence and the same deserved to be interfered with.

Having regard to the arguments advanced by the learned Government Advocate, impugned judgment and record of the trial Court were perused.

After taking into consideration the evidence of Ishwardeen (PW1).Kamal Singh (PW2).Badriprasad (PW3).Dr.

Anup Verma (PW4).Ramsevak Rajput (PW5).Dayali (PW6).Asharam (PW7).Bhagchand (PW8).Birjendra (PW9).ASI Amar Singh (PW10).Narayan Singh (PW11).Ramesh (PW12).Dr.

Kamlesh (PW13) and other material available on record, trial Court found that in fact victim Ishwarsingh was not dashed by Tractor to cause his death, but he was beaten with Lathis by respondent Nos.1 and 2 and had received some injuries which were not opined by the doctor to be sufficient in the ordinary couRs.of nature to cause his death.

Trial Court also found the evidence of the prosecution witnesses to be full of contradictions, omissions and exaggerations.

It is well settled that the judgment of acquittal should not be disturbed unless the conclusions drawn on the basis of evidence brought on record are found to be grossly unreasonable or manifestly perveRs.or palpably unsustainable.

Taking into consideration the reasons assigned on the face of evidence on record establishing the aforesaid facts and circumstances, the view taken by the learned trial Court was apparently a possible view.

As such, no interference is called for with the judgment of acquittal in question.

The application, being devoid of merit and substance, stands dismissed.

(AJIT SINGH) (B.D.RATHI) JUDGE JUDGE (and)

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