

Ashok Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Aug-26-2013

Appellant : Ashok

Respondent : The State of Madhya Pradesh

Judgement :

Cr.A.No.923/2013 26.8.2013 Per B.D.Rathi,J Shri Himanshu Chourasiya, Advocate for the appellant.

Shri S.K.Kashyap, Government Advocate for the respondent no.1-State.

Heard on admission.

This appeal has been preferred under Section 372 of the Code of Criminal Procedure being aggrieved with the judgment dated 20/2/2013 passed by IV Additional Sessions Judge, Chhatarpur in Sessions Trial No.149/11, whereby respondent No.2 Makhan @ Makhu Yadav has been acquitted of the offences punishable under Sections 148 and 302 read with 149 of the Indian Penal Code (IPC).

for short).Prosecution case, in brief, is that on 6/4/11 at about 7 a.m., consequent upon an altercation as to entering of buffalo belonging to Jagatraj (since deceased) in the field of Amar Singh, when Jagatraj along with Anil reached near the field of Mahadev Sahu, Amar Singh, armed with an Axe and other accused armed with Lathi, Danda and Axe came from behind, and started assaulting

Jagatraj.

They also rushed to assault Anil, but he ran away and shouted, hearing which Mahadev Sahu reached the spot and the miscreants, presuming Jagatraj to be dead, fled from the spot.

Anil, his brother Ashok Patel and Mahadev found that Jagatraj had sustained Axe injuries on his neck and back.

They took Jagatraj at Police Station Rajnagar, where report was lodged and immediately thereafter, he was taken to Primary Health Centre, Rajnagar, from where he was referred to District Hospital at Chhatarpur, where he was declared brought dead.

Morgue intimation was accordingly recorded and after investigation, charge-sheet was filed.

Learned counsel for the appellant as well as learned Government Advocate argued that the impugned judgment was passed without proper appreciation of evidence on record and respondent No.1 ought to have been convicted under section 307 of the IPC as well as under the Act.

Having regard to the arguments advanced by the parties we have gone through the impugned judgment and the evidence on record.

After appreciation of the evidence available on record, the trial Court held that the name of respondent no.2 was not mentioned in the FiRs.Information Report (Ex.P/3).Similarly, his presence and commission of offence by him, has not been stated by Anil (PW3).Ashok (PW5) and Umesh (PW5).There is no other incriminating evidence available on record against respondent no.2.

We agree with the findings recorded by the trial Court that prosecution has failed to prove its case beyond the reasonable doubt.

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 perverse.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 appeal, being devoid of merit and substance, stands dismissed.

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

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