

Prem Narayan Vs. Girish

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Court : Madhya Pradesh

Decided On : Aug-26-2013

Appellant : Prem Narayan

Respondent : Girish

Judgement :

Cr.A.No.1702/2011 26.8.13 Per B.D.Rathi,J None for the appellant.

Shri C.K.Mishra, Government Advocate for the respondent no.5-State.

Delay, if any, in preferring the appeal, is hereby condoned.

Heard on admission.

This appeal has been preferred under Section 372 of the Code of Criminal Procedure (hereinafter referred to as the Code.) being aggrieved with the judgment dated 09/03/2010 passed by Special Judge (under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short the Act.).at Sagar in Special Case No.09/2008, whereby respondent Nos.1 to 4 namely Girish, Pancham Singh, Dulichand and Kamlesh have been acquitted of the offences punishable under Sections 148, 302/149, 323/149 of the Indian Penal Code (IPC).

for short) and Section 3(2) (v) of the Act.

Prosecution case, in brief, is that on 30/08/2007, Sunil (since deceased).who had gone to purchase medicines with Ballu alias Balram, returned home and apprised his father viz.

complainant Premnarayan that they had an altercation with Pancham Patel, associate of one Kamlesh from whom they had to take Rs.100/-.

As they had returned without bringing the medicine, they again went to purchase the same, but did not return.

Next day, at about 6 a.m., Mukesh Prajapati apprised the complainant that Sunil was lying in the garden situated in front of the house of Pancham Patel.

Complainant went to the house of Ballu, who informed him that in the last night between 10.30 to 10.45 p.m., they were surrounded and assaulted by Pancham Patel, Duli Patel, Girish Patel, Kamlesh Patel and Sanju Patel, who were armed with Lathis and Yashpal Patel, who was armed with a Sword.

Ballu escaped from the spot and was not aware whether Sunil could flee or not.

On the aforesaid information, FiRs.Information Report (Ex.P/6) leading to registration of Crime No.329/07 in respect of the offences punishable under Sections 302, 147, 148 and 149 of the IPC was recorded and after investigation the respondents were apprehended and charge-sheet was filed.

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

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

Premnarayan (PW2).Kaushalya Rani (PW3).Pramod (PW7) and Ranjit (PW8).respectively father, mother and brothers of the deceased, have deposed that they were informed by Balram (PW1) about commission of offence by the respondents.

But, Balram, who is the eye-witness, stated that when 3 to 4 persons had assaulted with Dandas, he had escaped from the spot and was, therefore, declared hostile.

Accordingly, the evidence of the aforesaid family members of the deceased, was not credible.

In the aforesaid premises, the trial Court found that the prosecution had failed to prove its case beyond a reasonable doubt.

We agree with the findings recorded by the trial Court.

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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