

Mahendra Singh Vs. Rajkumar

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Court : Madhya Pradesh

Decided On : Aug-26-2013

Appellant : Mahendra Singh

Respondent : Rajkumar

Judgement :

Cr.A.No.1857/2011 26.8.13 Per B.D.Rathi,J Shri Abhinav Dubey, Advocate for the appellant.

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

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 19/04/2010 passed by III Additional Judge (FTC) to the Court of III Additional Sessions Judge, Raisen at Begumganj in Sessions Trial No.14/2007, whereby respondent nos.1 to 4 viz.

Rakumar, Babbu alias Babulal Harijan, Malthu and Omprakash alias Ramprasad Harijan have been acquitted of the offence punishable under Section 302/34 of the Indian Penal Code (IPC).

for short).Prosecution case, in brief, is that on 05/10/2006 appellant Mahendra Singh lodged a report that when his father Narayan Singh was working at the

fields, then accused persons namely Rajkumar, Malthu Baretha, Babbu Harijan and Omprakash assaulted Narayan Singh with Gupti, Danda and Axe.

While the appellant alongwith Ramraj Thakur was taking his unconscious father to hospital, he died in the way.

On the aforesaid information Crime No.280/2006 for the offence punishable under Section 302/34 of IPC was registered and after investigation charge sheet was filed.

Learned counsel for the appellant as well as 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 the parties, impugned judgment and record of the trial Court were perused.

Mahendra (PW1) testified that respondent Rajkumar was armed with a Gupti enclosed in its sheath, respondents Malthu and Babbu were having Dandas while Omprakash was having an Axe and they all had assaulted the deceased on his head and back, who had received several injuries.

His evidence, not being supported by that of Jagat Singh (PW2).was disbelieved by the trial Court.

Jagat Singh, despite knowing all the respondents, deposed that Rajkumar and Babbu had caused injuries to the deceased by Lathis along with two other unknown persons.

He was declared hostile.

Besides this, Dr.

J.P.Patel (PW3).who conducted the autopsy, noticed only one lacerated wound on the fronto parietal region of the deceased and no injury by Lathi was found.

Blood stain was found on the Gupti, allegedly seized at the instance of Rajkumar, whereas, as per the deposition of Mahendra, it was enclosed in its sheath.

Admittedly, there was a dispute pertaining to land between the parties and respondent Rajkumar is real brother of the deceased.

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 that prosecution has failed to prove its case beyond 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 order 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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