

The State of Madhya Pradesh Vs. Nitin

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Court : Madhya Pradesh

Decided On : Jul-31-2013

Appellant : The State of Madhya Pradesh

Respondent : Nitin

Judgement :

M.Cr.C.No.7085/2011.

31.7.13 As per B.D.Rathi,J Shri Yogesh Dhande, Government Advocate for the applicant-State.

None for respondent, though served.

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 10/02/11 passed by Sessions Judge, East Nimad, Khandwa in Sessions Trial No.208/2010, whereby respondent has been acquitted of the offence punishable under Section 307 (part

1) of the Indian Penal Code (IPC.

for short) and under Section 25 (1B) (a) & 27 of the Arms Act.

Prosecution case, in brief, is that on 06/09/2010 at about 5.35 pm, complainant Tanveer was returning from Court with his father Mohd.

Shafi and friends Golu and Nijam.

Near railway crossing, respondent came with a pistol and with an intention to kill Tanveer fired at him, but his father pushed the hand of the respondent causing the target to be missed and as the respondent tried to fire for the second time, father of the complainant dealt a stone blow at him and ran to catch hold of him, but respondent, leaving his Chappals, fled.

FiRs.Information Report (Ex.

P/1) was lodged in Police Station Moghat Road, Khandwa and Crime No.306/2010 was registered and after investigation charge-sheet was filed.

Learned Government Advocate, while making reference to the evidence on record, submitted that the trial Court has erred in appreciating the evidence and the judgment of acquittal deserves to be interfered with.

Having regard to the arguments advanced by the learned Government Advocate, we have gone through the impugned judgment.

After appreciation of evidence, trial Court held in paragraph 6 of the impugned judgment that there was previous enmity between the parties, independent witness Golu (PW5) had not supported the prosecution story, another eye-witness Nijam had not been produced before the trial Court and remaining two witnesses complainant Mohd.

Tanveer (PW1) and his father Mohd.

Shafeeq (PW2) were not reliable because of the fact that they had narrated in an exaggerated manner and their evidence was full of contradictions and omissions.

That apart, it was also not found proved that the empties alleged to have been recovered from the spot, were fired from the seized pistol.

On the aforesaid premises, the trial Court discarded the case of the prosecution.

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

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

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