

Shiv Singh Vs. Harnarayan and Others

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Court : Madhya Pradesh

Decided On : Jul-11-2014

Judge : S.K.Gangele & S.K. Palo

Appeal No. : CRIMINAL APPEAL No. 994 of 2011

Appellant : Shiv Singh

Respondent : Harnarayan and Others

Judgement :

1. Feeling aggrieved by the judgment of acquittal passed by the 6th A.S.J. Bhind in S.T. No. 141/2006 (State of Madhya Pradesh Vs. Harnarayan and others) decided on 5.9.2011 by which the learned trial Court has acquitted all the accused persons / respondents under Sections 147,148 and 307/149 of IPC, has filed this appeal under Section 372 of Criminal Procedure Code.

2. The factual matrix of the case lies in a narrow compass;

The appellant is the complainant in S.T. No. 141/2006. It is alleged that on 25.12.2005 at about 10 AM near Sidh Baba Gate, which is situated near the residence of complainant Shiv Singh in village Githor, Thana Mehagaon, District Bhind the accused persons came in two vehicles some of them armed with mouzers and some with Lathi and Farsa. When the complainant was sitting in the Chabutra (platform), the accused persons fired in air, complainant was criminally intimidated. Some of the bullets fired hit on the complainant's doors and one bullet

hit in his calf on the left leg and blood oozed from the wound. At that time, Harendra Singh and Dharmveer, sons of the complainant Shiv Singh and other villagers ie Ramvaran and Rajendra Singh came to the scene. When the complainant Shiv Singh hid in his house. The accused persons abused and dispersed. Complainant lodged a report at Police Station Mehagaon. Complainant medically examined, criminal case was registered under Sections 147, 148 and 336, 307/149 of IPC before the JMFC Mehagaon.

3. After, the case was committed to the Session Court the Additional Sessions Judge, levelled the charges under Sections 147, 148 307/149 of IPC against the accused persons. They abjured guilt. In their examination they have stated that they are falsely implicated because of their enmity with the complainant. After adducing evidence, the learned 6th ASJ pronounced the impugned judgment and acquitted the respondents.

4. The complainant has filed this appeal on several grounds and stated that the statement of Harendra Singh, Dharmveer Singh, Ramvaran Singh and Rajendra Singh along with statement of complainant, Shiv Singh are sufficient to prove the case. The injuries caused to the complainant has been corroborative piece of evidence which has been over looked by the trial Court. Therefore, the trial Court has erred in acquitting all the 11 accused persons. It is prayed that the appeal be allowed and the accused persons / respondents be sentenced accordingly.

5. We have heard the arguments of both parties and gone through the record of the trial Court. The evidence elucidated the fact that the complainant Shiv Singh has claimed that he sustained gun shot injury in his calf on the left leg, as per his version in the FIR. In the statement before the trial Court he claimed that he received injury on the calf of the right leg. Not only this, the medical officer PW-4 Dr. R.K. Taneja has clearly and un-ambiguously stated that the wound on the calf of the left leg of the complainant was an abrasion and this injury is not a result of any gun shot or fire arm. Thus, it cannot be attributed to any gun shot.

6. The learned trial Court has also found that the FIR lodged after three and half hours, which is belated FIR and no justification has been given for the delay in lodging the FIR. The statement of complainant Shiv Singh PW-2 and so called eye

witnesses PW-1 Dharmveer son of complainant Shiv Singh, Mangal PW-3, Harendra Sinigh, PW-6, Ramvaran PW-7 is concerned they have stated that the injury is caused by the fire arm is completely contradictory to the statement made by PW-4 Dr. R.K. Taneja. In the FIR Ex.P/1, it is mentioned that the accused persons fired in the air, the omission that the accused persons tried to kill Shiv Singh and fired gun shot in Ex.P/1 is very material.

7. Besides, the investigation Officer, H.S. Yadav PW-8 has deposed that there was no sign of any bullet or pallet hitting the walls, doors and other places at the spot, also goes to show that the version of the complainant and his witnesses are not corroborated. The incident said to have been taken place on 25.12.2005, whereas the statements of witnesses Rajendra Singh Dharmveer Singh PW-1, Mangal Singh PW-3 and Ramvaran PW-7, who are stated to have been present at the time of incident were recorded six months after the incident, i.e. on 14.6.2006. This also creates reasonable and probable doubts in the prosecution case.

8. Keeping in mind that the evidence available on record before the trial Court lay beyond any pale of controversy, the accused persons were acquitted. We find that the trial Court has not erred in pronouncing the judgment of acquittal. Therefore, it calls no interference.

9. Hence, this appeal is devoid of merits and the same is hereby dismissed.

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