

The State of Maharashtra Vs. Ramnath Namdeo Gadhe and ors.

The State of Maharashtra Vs. Ramnath Namdeo Gadhe and ors.

SooperKanoon Citation : sooperkanoon.com/356021

Court : Mumbai

Decided On : Jul-25-2003

Reported in : 2003(2)ALD(Cri)127

Judge : V.G. Palshikar and ;D.B. Bhosale, JJ.

Appeal No. : Appeal No. 132 of 1988

Appellant : The State of Maharashtra

Respondent : Ramnath Namdeo Gadhe and ors.

Advocate for Def. : B.G. Vaidya, Adv.

Advocate for Pet/Ap. : F.R. Shaikh, APP

Disposition : Appeal dismissed

Judgement :

Palshikar, J.

1. This appeal is directed against order of acquittal dated 9.10.1987 passed in Sessions Case No. 51 of 1987 by the learned Sessions Judge, Nashik. He acquitted all the accused of the offences with which they were charged.

2. With the assistance of the learned Public Prosecutor and the learned counsel appearing on behalf of the accused we have scrutinized record and reappreciated

the evidence. The prosecution story as disclosed on reappreciation of evidence is that P.W. 13-G.S. Rajole lodged FIR about the incident dated 24.12.1986 at 8.30 p.m. complaining that on 24.12.1986 at about 8.30 in Shindwad village around the house of the complainant in Gut No. 206 of that village there was quarrel between the accused and the complainant party in which the accused forcibly entered the house of the complainant and beat him and thereafter they pulled him out of the house and beat him on the ota of the house. Thereafter he was pulled in the filed of harbara and again beaten. As a result of this beating which included a struck by axe upon Punja Popat Gade the victim Punja Popat Gade died. Injuries were caused to other persons and therefore complainant was lodged on the basis of which investigation was undertaken and the accused persons were arrested and prosecuted. It will be seen that the accused Nos. 1 and 2 are brothers being sons of Namdeo Gadhe and accused Nos. 3 to 6 are again brothers being sons of Shankar Ghade. All the accused are therefore closely related with each other. There is no dispute that the complainant party and accused party had quarrels and therefore grudges against each other. From the evidence it appears to us that there was obviously some quarrel between the parties. The prosecution examined as many as 19 witnesses to prove its case. Of these 19 witnesses only four are eye witnesses some of whom are also injured. P.W.6-Punja is the son of the deceased. In his entire deposition he nowhere states anything about accused Nos. 4 and 5. He attributes stick blow to accused Nos. 2 and 3 by which he contends that he was hurt. The other witness is wife of P.W.6-Punja, P.W.7-Latabai. She talks of Punja her husband being dragged to gram crop (harbara). However there is no such mention of his being dragged in the deposition of P.W.6. Apart from that two other witnesses P.W.8-W.D. Gade and P.W.9-P. Gade who also belong to the family of complainant claim to be eye witnesses. P.W.9-S.P. Gade is wife of the deceased. There are several material contradictions in the evidence of these witnesses who claim to be eye witness. Scrutiny of the evidence shows that none of them came out to firmly depose as to where the offence occurred. Some say it occurred on ota of the complainant's house, some say that it occurred in the harbara field and bajra field. P.W.7-Latabai states that all the accused dragged her husband P.W.6-Punja to gram crop and then says that one Shivaji dragged her husband to bajra crop. Shivaji is not an accused. P.W.6 does not say that he was

hit on the head by accused No. 6. P.W. 7 says that accused give stick blow on the head of her husband Punja. There are several such material contradictions in the ocular testimony of eye witnesses.

3. They are members of one family and accused are members of other family. The homicidal death no doubt is proved by the prosecution witnesses, medical report is duly proved and the medical officer is examined. There is no doubt that the death of Popat was homicidal but the prosecution failed to prove that it was caused by these persons only. It was on appreciation of these contradictions which are material in nature that the learned trial Judge recorded finding of acquittal. We generally agree with all the findings recorded by learned trial Judge. Our reappreciation of evidence also discloses that the findings were correct. In the circumstances we see no reason to interfere with the order of acquittal. In the result therefore appeal fails and is dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com