

Rambagas Vs. State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Jul-25-1983

Reported in : 1984CriLJ1068

Judge : J.S. Verma and ;C.P. Sen, JJ.

Appellant : Rambagas

Respondent : State of Madhya Pradesh

Judgement :

J.S. Verma, J.

1. The appellant Rambagas has been convicted under Section 302 IPC and sentenced to life imprisonment for the murder of Bora alias Basodi, father of Dassobai (P.W. 4), at about 5.30 P.M. on 30.7.1980, on the outskirts of village Jamuptola in district Seoni. The first information report (Ex. P-5) was lodged by Shriram (P.W. 3). stating that Dassobai (P.W.) daughter of the deceased, came running to him at 6 P.M. that day and informed him that one man had assaulted her father with a lathi' that on being asked the identity of the assailant, she said that he was a tall man with short hair, meaning thereby a stranger answering that description. It was further stated that on rushing in that direction, they found Bora alias Basodi lying dead and on being told by Surjan (P.W. 5) that he had seen the appellant Rambagas running away, they chased Rambagas and caught him near the river and then seized a bloodstained lathi from him. It was also stated that the

Dhoti of Rambagas has bloodstains.

2. The Chemical Examiner did not find any blood on the Dhoti of Rambagas, even though on the lathi, alleged to have been seized from the possession of Rambagas, some bloodstains were found. However, the origin of those bloodstains could not be traced as the report of the serologist has not been obtained. The prosecution case rests entirely on the testimony of the sole eye witness Dassobai (P.W. 4), who was admittedly present with her father when he was assaulted. Dassobai (P.W. 4) has expressly admitted knowing the appellant was not a stranger to her at the time of the incident. The version of Dassobai (P.W. 4) mentioned by Shriram (P.W. 3) in the first information report indicates that Dassobai (P.W. 4) had described the assailant of her father as a stranger and not a person known to her from before. In view of this fact, the testimony of the sole eye witness Dassobai (P.W. 4), without being corroborated in material particulars by any evidence from an independent source, is unsafe for upholding the appellant's conviction. We would, therefore, give the appellant benefit of doubt and acquit him.

3. Consequently, the appeal is allowed. The conviction and sentence of the appellant are set aside and he is acquitted. The appellant is on bail. His bail bonds are discharged.