

Late Vs. State of Madhya Pradesh

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Court : Supreme Court of India

Decided On : Aug-18-1992

Reported in : AIR1994SC763; 1994CriLJ1122

Judge : K. Jayachandra Reddy and; G.N. Ray, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 395, 397 and 398

Appeal No. : Criminal Appeal No. 125 of 1986

Appellant : Late

Respondent : State of Madhya Pradesh

Judgement :

1. One Late is the appellant before us in this appeal. He along with four others were tried for offences punishable Under Sections. 397 and 395 read with Section 398, I.P.C. It is alleged that on the intervening night of 10th and 11th March, 1981, these accused committed the dacoity in the house of Chandan and caused injuries to the inmates. Because of the alarm the villagers came running and according to the prosecution the accused ran away but two of them appellant Late A-3 and Mohd. Rahish A-1 were caught by the villagers. They were produced before the police. The information 'was laid before the police and investigation was commenced. During the investigation it was found that PWs. 11 and 14 the father and son were injured and that some articles were also seized. The other accused were also alleged to have participated and were arrested. An identification parade

was also held. Some recoveries were also said to have been effected. After completion of the investigation the charge-sheet was filed. The prosecution examined several witnesses and mainly relied upon the evidence of P.Ws. 11 and 14 along with P.W. 13. There is no dispute that a robbery took place in the house of P.W. 11 and some inmates were injured. The trial court rejected the evidence regarding identification parade and this has been affirmed by the High Court. With regard to the participation all the five accused were put for trial. The trial court considered the evidence of all witnesses but was not prepared to place reliance on that and acquitted the accused. On appeal by the State against the said order of acquittal the High Court confirmed the acquittal of other accused but convicted the appellants Late A-3 and Mohd. Rahish A-1 on the sole ground that they were caught by villagers when they were in the house when dacoity took place. The accused, particularly A-2, pleaded that they were innocent and they were going to a neighbouring place and the villagers who were running hither and thither caught hold of them and on suspicion they were implicated. The trial Judge after consideration of the entire evidence acquitted all the accused.

2. We find that the High Court convicted these two accused solely on the ground that they were caught while running. No recovery was effected from them. There is no material whatsoever that they participated in dacoity or caused injuries to inmates including the witnesses. The explanation given by the accused cannot be rejected outright. It is well-settled that the accused need not prove their plea beyond all reasonable doubt.

3. In an appeal against the acquittal the appellate court normally does not interfere unless the view taken by the trial court is wholly unreasonable and erroneous.

4. Having regard to the fact that the view taken by the trial court is not unreasonable, we set aside the conviction and the sentences awarded to the appellants and allow the appeal. The same benefit will also accrue to Mohd. Rahish the other accused, who is not before us. He shall be set at liberty if not required in only other proceedings.