

State of Raj. Vs. Jarman and ors.

State of Raj. Vs. Jarman and ors.

SooperKanoon Citation : sooperkanoon.com/757356

Court : Rajasthan

Decided On : Feb-01-1991

Reported in : 1991(1)WLN125

Judge : Farooq Hasan, J.

Appeal No. : S.B. Cr. Appeal No. 578/84

Appellant : State of Raj.

Respondent : Jarman and ors.

Disposition : Appeal dismissed

Judgement :

Farooq Hasan, J.

1. In Sess. Case No. 67/83, the Sessions Judge, Bharatpur, vide his judgment dated 31.10.83 acquitted the respondents, namely, Jarman, Nahney, Mani @ Mansingh, Girraj & Ramjit of the offences charged Under Sections 148, 307, & 307/149 IPC, for the incident alleged to have taken place on 26.7.81. Hence this appeal.

2. In all nine witnesses were produced by the prosecution. The trial Court found the presence of the witnesses, namely, Mohan Singh, Mansukha, Ram Singh & Hari Singh, as dubious and doubtful inasmuch as it held that the witnesses named

in the complaint all were having animus & enmity relations with the accused-respondents with long standing and they were interested and from their evidence, taking support will be fatal to the prosecution. Therefore, the evidence of the prosecution witnesses was held to be untrustworthy as a result of the effect of the incongruities and inconsistencies full of concoction. The trial Court held that the prosecution has suppressed the origin and genesis of the incident and the witnesses have changed the place of incident in their evidence by resiling from their earliest version given out before the police. That being so, out of 17 accused in the first information report, the police filed challan only against seven persons and only two persons have been held guilty. The injured Raghuvir (PW 1) has failed to establish that the respondents have inflicted any blow causing injuries on his person because, looking to the allegation of causing injuries made in his evidence, the corresponding injuries were not found by the doctor on the person of the injured. Therefore, the acts alleged against the respondents were found to be unproved, inasmuch as the trial Court arrived at the conclusion that the prosecution failed to prove the intention or any knowledge on the part of the respondents that the acts which they were going to do, or the injury which they were going to inflict, would cause death. The trial Court found all the essential ingredients of Section 300, IPC, so as to make out the case against the respondents for the offence Under Section 307, IPC, as lacking. Hence, the respondents were rightly found not guilty Under Sections 307 & 148 or 307/149, IPC. Having considered the findings arrived at by the trial Court, I am of the opinion that the grounds on which the trial court based its order acquitting the respondents were reasonable and plausible and that was the only view which could have been taken by the trial Court and they cannot be dislodged by disturbing the acquittal even if two views are possible after re-appraisal of the evidence which is not the case in hand here also. Therefore, I find no reason to interfere with the acquittal after lapse of ten years also.

3. Accordingly, this appeal is dismissed. The respondents are on bail and need not surrender. The record be sent back.