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Pal Singh Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jan-05-1990

Reported in : 1990WLN(UC)2

Judge : S.N. Bhargava, J.

Appeal No. : S.B. Cr. Appeal No. 1 of 1979

Appellant : Pal Singh

Respondent : State of Rajasthan

Disposition : Appeal allowed

Judgement :

S.N. Bhargava, J.

1. This appeal has been directed against the judgment of the learned Additional Sessions Judge, Sri Ganganagar, convicting the accused appellant Under Section 307, IPC and sentencing him to three years's rigorous imprisonment and a fine of Rs. 1000/-.

2. FIR in this case has been lodged by PW 1 Heeranand who has been declared hostile. Similarly all other alleged eye witnesses, namely, PW 2 Ram Chander, PW 4 Subhash Chandra, PW 6 Hansraj, PW 7 Norangrai and PW 8 Bodaldas have been declared hostile None of them has supported the prosecution story as given

in the FIR. The learned Additional Sessions Judge has based his conviction solely on the evidence of PW 10 Radhey Shyam and the recovery of the pistol at the instance of the accused. It may be mentioned at the outset that the pistol was a licensed one and the licence was also in the name of the accused appellant and he had handed over the pistol along with the licence.

3. I have carefully gone through the First Information Report as also the statement of all the witnesses, including PW 10 Radhey Shyam. Radhey Shyam also has not fully and entirely supported the prosecution story as given in the FIR and a bare perusal of the evidence will show that entire evidence is contra-distinction of the other PWs, as mentioned above. It is very difficult to believe and rely on the sole testimony of PW 10 Radhey Shyam. His evidence does not show, in the facts and circumstances of the case, that the pistol could be fired and injured any of the persons, including Radhey Shyam. Therefore, in my opinion, the prosecution has failed to prove the guilt of the accused appellant and the accused appellant is entitled to be acquitted.

4. In the result, this appeal is allowed, the conviction passed by the learned Sessions Judge is acquitted of charges Under Section 307, IPC.

5. The accused appellant is on bail. He need not surrender. His bail bonds are hereby discharged.

6. The licenced pistol may be returned to the appellant.

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