

State Vs. Ramavtar and anr.

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Court : Rajasthan

Decided On : Jul-02-2008

Reported in : RLW2009(1)Raj503

Judge : Mahesh Chandra Sharma, J.

Appellant : State

Respondent : Ramavtar and anr.

Disposition : Appeal dismissed

Judgement :

Mahesh Chandra Sharma, J.

1. The State of Rajasthan has preferred this appeal against the judgment dated 28.3.2001 passed by learned Addl. Sessions Judge, Rajgarh Distt. Alwar (hereinafter to be referred as 'the learned trial Court') in Criminal Case No. , 23/2000 by which he acquitted the accused-respondent No. 1 Ramavtar Meena for the offence under Section 307 IPC and accused Ram Khilari for the offence under Section 307/34 IPC.

2. In brief, the facts of the case are as under:

On 6.11.1999 complainant (PW. 2) gave a parcha bayan in the hospital of Rajgarh before the Assistant Sub Inspector of Police, Rajgarh in which he had stated that

at about 2.30 P.M. he went to bus stand Bigota for carrying tyre, then in the way accused-respondents demanded money for drinking liquor and when on denial, the accused-respondent No. 2 Ram Khilari gave a lathi blow to him and accused-respondent No. 1 Ramavtar gave a knife blow on his stomach and they snatched him away Rs. 20,000/-. (Twenty thousand only) and one Indraj Meena (PW. 4) had taken him in the hospital.

3. Upon the said information the police registered the case under Sections 341, 323 and 379 IPC. IPC and started investigation against the accused-respondents. After investigation the police filed a challan against the accused-respondents for the offence under Sections 341, 324 and 307/34 IPC before the learned Magistrate, 1st Class, Rajgarh where the case was committed to the learned trial Court. The learned trial Court framed the charges against the accused-respondent for the offences mentioned hereinabove.

4. The charges were read over and explained to the accused-respondents who pleaded not guilty and claimed trial.

5. During trial the prosecution in support of its case examined as many as 16 witnesses and got exhibited some documents.

6. Thereafter the statements of the accused-respondents under Section 313 Cr.P.C were recorded.

7. After conclusion of the trial the learned trial Court vide its judgment dated 28.3.2001 acquitted the accused-respondents from the offence charged against them holding inter alia that the prosecution has not been able to prove its case beyond all reasonable doubts against the accused-respondents.

8. Aggrieved against the judgment and order of the learned trial Court dated 28.3.2001, the State of Rajasthan has preferred the instant appeal.

9. In this appeal it has been submitted by the learned Public Prosecutor that the learned trial Court has not considered the statements of the prosecution witnesses properly. He has further contended that the learned trial Court has wrongly observed that prosecution has failed to prove the offence against the accused-

respondents and ' thus, the impugned judgment and order dated 28.3.2001 is erroneous one and should be set aside.

10. He has further contended that the learned trial Court did not consider the , statements of PW-14 Dr. Shiv Shanker Sharma and PW. 12 Dr. Satish Chand Agarwal by which they said that the injuries on the body of Lakshman was very serious and these injuries was dangerous to death. But the learned trial Court acquitted the accused respondent which is legally wrong. He has further contended that the learned trial Court has also not considered the statements of PW-2 Lakshman (complainant) by which he said that when he was going to the Baghota Bus Stand for brining tyre. In the way, accused Ramkhilari and Ramavtar met him and said that give them money for wine but he said he has not money. On this Ramkhilari gave a lathi blow on his head and Ramavatar gave knife blow in his stomach. Due to this, he got serious injuries on his body.

11. On the other hand, the learned Counsel for the accused- respondents has submitted that the impugned judgment and order passed by the learned trial Court is based on the correct appreciation of evidence and after giving cogent reasons, the learned trial Court has acquitted the accused respondents from the charges framed against them and thus, no interference is required with the impugned judgment and order of the learned trial Court in this appeal.

12. He has also contended that the Assistant Sub Inspector who lodged the parcha Bayan was not produced before the Court and his evidence was very important. Not only, this F.S.L. Report was also not produced before the Court. He has further contended that the star witness of the prosecution namely PW. 7 Ramswaroop, PW. 8 Mangelal, PW. 9 Habula Ram and PW. 10 Ratiram, all these witnesses are the eye witnesses and they have been declared hostile. He has further contended that no Independent witness has been produced by the prosecution. He has also contended that the accused respondents ts facing the ' trial from last several years which ts tentamounts to punishment.

13. Ihave heard learned Public Prosecutor as well as the learned Counsel for the accused-respondents and also gone through the record of the case.

14. Having gone through the Impugned judgment dated 28.3.2001 passed by the learned trial Court, I find that the learned trial Court has given cogent reasons for not finding the case of the prosecution proved against accused respondents.

15. Looking to the evidence just discussed above, it can easily be said that the prosecution has not been able to prove its case beyond all reasonable doubts against the accused respondents for the offence for which they have been charged and the learned trial Court was right in acquitting the accused respondents. I have no reason to dissent from the finding of acquittal recorded by the learned trial Court, as they appear to be reasonable and plausible in the facts and circumstances of the case. The learned trial Court has given cogent reason in acquitting the accused respondents.

The Court attention was drawn on the following judgment of the Hon'ble Supreme Court:

Umrao v. State of Harayana and Ors. SC 2006 Vol. 10 Page 136 in which the Lordships of the Supreme Court has observed in para 26 that 'it is now well settled that if two views are possible, the appellate court should not interfere with the judgment of acquittal passed by the Court below.

16. It may be stated that in appeal against acquittal though powers of the High Court to reassess the evidence and to reach its own conclusions are as extensive as in an appeal against an order of conviction, yet as a rule of prudence, it should always give proper weight and consideration to the views of the trial judge as to the credibility of the witnesses; the presumption of Innocence in favour of the accused, right of the accused to the benefit of any doubt and thus, High Court should not ordinarily disturb the order of acquittal. Therefore, this Court does not want to interfere with the impugned judgment and order of acquittal passed by the learned trial Court and this appeal is liable to be dismissed.

17. Accordingly, this appeal filed by the State of Rajasthan fails and the same is hereby dismissed, after confirming the judgment and order of acquittal dated 28.3.2001 passed by the learned Additional Sessions Judge, Rajgarh, District Alwar. The accused-respondents are on bail and they need not to surrender. Their

bail bond stand discharged.

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