

State Vs. Hansraj and ors.

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Court : Rajasthan

Decided On : Aug-26-2008

Reported in : RLW2009(3)Raj2286

Judge : Mahesh Chandra Sharma, J.

Appellant : State

Respondent : Hansraj and ors.

Disposition : Appeal dismissed

Judgement :

Mahesh Chandra Sharma, J.

1. The State of Rajasthan has preferred this appeal against the judgment dated March 12, 2004 passed by learned Additional District & Sessions Judge (Fast Track) No. 1, Baran, (Rajasthan) (hereinafter to be referred as the learned trial Court') in Sessions Case No. 7/2003, by which he acquitted the accused respondent No. 1 Hansraj, No. 2 Amarlal and No. 3 Om Prakash for the offences under Section 307, 324, 324/34 and 326/34 IPC and accused respondent No. 4 Nandlal for the offence under Section 3/27 of Indian Arms Act.

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

On 7.2.2002, complainant Hemraj (PW.1) submitted a written report in Police Station Sadar, Baran with this effect that on 7.2.2002 at about 6-6.30 P.M. when he and one Promod Kumar (PW. 3) were going on motor cycle in the field to start Motor, suddenly when they reached near the Om Prakash Gupta from the road and went through the side of Atru, suddenly from the body of Chottumal Meena the accused-respondent No. 3 Om Prakash Meena fired upon them. Upon which he received injuries from backside of head and feet from Chara. He jumped from the motor cycle and ran towards Panchayat, on that the accused-respondent No. 2 Amar gave second fire that hit to Promod Kumar on his head and eyes, the accused-respondent No. 1 Hansraj gave third fire to him but he has not received any injury. Lastly, he stated that the accused-respondents wanted to kill them and gave them fire from pistol and they sustained injury. He has also stated in his report that Hemraj (PW. 1) and Komal (PW.7) seen the incident.

3. Upon the said report the police registered the case No. 27/2002 in Police Station Baran for the offences under Section 307, 323 and 34 IPC and Section 27 of the Arms Act and started investigation.

4. After investigation the police filed a challan against the accused-respondents for the offences under Section 307, 326, 324, 323/34 IPC before the Chief Judicial Magistrate, Baran where the case was committed to the Court of Sessions where the case was transferred to the learned trial Court.

5. The learned trial Court framed the charges for the offences under Section 307, 324, 324/34 and 326/34 against accused-respondents Hansram, Omprakash and Amarlal and against accused-respondent Nandlal for the offence under Section 3/27 of Arms Act.

6. The same was read over and explained to the accused-respondents who denied for the same and claimed trial.

7. During trial the prosecution in support of its case examined as many as 15 witnesses and got exhibited some documents.

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

9. After conclusion of the trial the learned trial Court vide its judgment dated 12.3.2004 acquitted the accused-respondent for the offence framed against him holding interalia that the prosecution has not been able to prove its case beyond all reasonable doubts.

10. Aggrieved against the judgment and order of the learned trial Court dated 12.3.2004, the State of Rajasthan has preferred the instant appeal.

11. 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 12.3.2004 is erroneous one and should be set aside.

12. The learned P.P. further submitted that learned court below has erred in not properly appreciating the statements of eye witnesses PW Pawan Kumar, PW. 7 Komal Prasad which evidently proved the guilt of the accused persons. Hence, the non-reliance on the testimony of the witnesses resulted into acquittal of the accused persons. Lastly, he has urged that learned Court below has erred in not relying over the injury report of the injured persons, which evidently proved the guilt of the accused-persons.

13. 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 charge framed against them and thus, no interference is required with the impugned judgment and order of the learned trial Court in this appeal.

14. The learned Counsel further contended that there is a major contractions in the statements of the prosecution witnesses who has not support the prosecution

story. The learned Counsel further draw the attention of this Court upon the judgment of the learned trial Court. The relevant part of the judgment runs as under:

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15. I have heard learned Public Prosecutor as well as the learned Counsel for the accused-respondents and also gone through the record of the 20 case.

16. Having gone through the impugned judgment dated 12.3.2004 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.

17. 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 reasons 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.

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

Umrao v. State of Harayana and Ors. SC 2006 10 136 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.

19. 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.

20. Accordingly, the appeal filed by the State of Rajasthan fails and the same is hereby dismissed, after confirming the judgment and order of acquittal dated March 12, 2004 passed by the learned Additional District & Sessions Judge (Fast Track) No. 1, Baran (Rajasthan). The accused-respondents are on bail and they need not to surrender. Their bail bond stand discharged.