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State of Madhya Pradesh Vs. Paramlal and Three ors.

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Court : Madhya Pradesh

Decided On : Apr-23-2010

Judge : Rakesk Saksena and; Sushma Shrivastava, JJ.

Appellant : State of Madhya Pradesh

Respondent : Paramlal and Three ors.

Judgement :

Sushma Shrivastava, J.

1. Appellant/State has preferred this appeal against the order of acquittal of the respondents under Section 147, 302/149 of IPC passed by 4th Additional Sessions Judge, Chhatarpur in S.T. No. 10/91 vide judgment dated 29.12.92.

2. As per prosecution allegations, on 13.10.90 about 7:30 in the evening when deceased Nandkishore was returning back to his house at Tiwarin Purva alongwith his buffalo and reached near Athai (public platform), respondents armed with lathi intercepted him and began assaulting him by lathi. On hearing the screams of Nandkishore, his brother Chhotelal and other family members reached there and whooped as to why they were assaulting him, respondents then said that they would kill him and fled away after assaulting him. As a result of lathi blows on the head and other parts of the body, Nandkishore fell unconscious. He was then taken to his house by his brother Chhotelal, but Nandkishore did not regain consciousness. His brother Chhotelal then took him to the Police Station Civil

Lines, Chhatarpur on a bullock-cart and lodged the FIR, on the basis of which an offence was registered against the respondents and co-accused Jaggu and was investigated. Injured Nandkishore was sent for medical examination and was admitted in the hospital, where he succumbed to his injuries on 14.10.90. Merg inquest report was prepared and the dead body of deceased was sent for postmortem examination. During investigation lathis used in the commission of offence were discovered at the instance of the respondents. After due investigation, respondents were prosecuted under Section 341, 323, 506-B, 147, 148 and 302 of IPC and were put to trial. Co-accused Jaggu being juvenile, was sent to Juvenile Court.

3. Respondents were charged and tried under Section 147, 302/149 of IPC before Sessions Court. Respondents abjured the guilt and pleaded false implication due to enmity.

4. Learned Additional Sessions Judge, after trial and upon appreciation of the evidence adduced in the case, came to hold that the prosecution failed to establish the case against the respondents beyond periphery of doubt and therefore, acquitted all of them of the charges under Section 147, 302/149 of IPC by the impugned judgment, which has been challenged in this appeal.

5. We have heard the learned Counsel for the parties.

6. Learned Counsel for the appellant/State submitted that the trial court gravely erred in disbelieving the evidence of as many as five eyewitnesses despite corroborative medical evidence and erroneously acquitted the respondents without any cogent and justifiable reasons and the impugned judgment suffers from serious infirmities and deserves to be reversed.

7. Learned Counsel for the respondents, on the other hand, justified and supported the impugned judgment and submitted that the trial court rightly disbelieved the evidence of the related witnesses for want of independent corroboration and has given cogent reasons for acquitting the respondents. Leaned counsel for the respondents further submitted that in an appeal against acquittal even if two views are possible from the evidence on record, the view

favouring the accused persons has to be adopted and no interference is warranted in the order of acquittal. Reliance was placed in this behalf on the decisions of the Apex Court rendered in the case of Ganesh Bhavan Patel and Anr. v. State of Maharashtra reported in : AIR 1979 Supreme Court page 135; Harijana Thirupala and Ors. v. Public Prosecutor, High Court of A.P., Hyderabad reported in : AIR 2002 Supreme Court page 2821; State of Goa v. Sanjay Thakran and Anr. reported in : (2007) 3 Supreme Court Cases page 755; State of Rajasthan v. Mohan Lal reported in AIR 2009 Sc 1872; Mahtab Singh and Anr. v. State of U.P. reported in : AIR 2009 Supreme Court page 2298.

8. We have gone through the impugned judgment and perused the entire evidence on record.

9. In order to bring home the guilt of the respondents the prosecution examined as many as five eyewitnesses, namely, Chhotelal (P.W-3), Durjan (P.W-4), Khillu (P.W-5), Halke (P.W-6) and Nonibai (P.W-7), besides two medical witnesses, namely, Dr. R.K. Khare (P.W-8) and Dr. S.R. Gupta (P.W-9) and certain other formal witnesses. Complainant Chhotelal (P.W-3), is the real brother of deceased Nandkishore, who also lodged the FIR (Ex.P-3) with the Police, Civil Lines, Chhatarpur. Other eyewitnesses are also his relatives.

10. Complainant Chhotelal (P.W-3) categorically deposed in his evidence that at the relevant time about 7:00 or 7:15 in the evening when he was at home, he heard the screams of his brother Nandkishore, who was near Athai Chowk; when he went there, he found that respondents Paramlal, Ramlal, Shriram, Hakku and one Jaggu were assaulting his brother Nandkishore with lathi; when he whooped as to why they were assaulting him, they all fled away from the spot. According to Chhotelal (P.W-3), his brother Nandkishore had injuries on his head on both the temples, as well as on his scapular region and the wrist and was unconscious. He then lifted his brother and took him to the house, sprinkled water over him, yet he did not speak; then he brought him to the Police Station Civil Lines, Chhatarpur and lodged the FIR (Ex.P-3). As per evidence of Chhotelal (P.W-3), after recording of the report, injured Nandkishore was sent to the hospital and doctor had advised him to take to Gwalior, but by the time he could arrange money till next morning,

Nandkishore expired. Complainant Chhotelal (P.W-3) also testified his signatures on the FIR (Ex.P-3).

11. The evidence of complainant Chhotelal (P.W-3) also stands duly corroborated by the testimony of Durjan (P.W.-4). According to Durjan (P.W-4), on hearing the screams of his brother Nandkishore, who was returning from the field, he rushed to the spot near Athai and found that respondents Paramlal, Ramlal, Hakku and Shriram were assaulting Nandkishore by lathi, and he had received lathi blows on his head and other parts of the body and fell unconscious due to injuries. Durjan (P.W-4) also deposed that the deceased was taken to Chhatarpur Police Station from where he was sent to the hospital, but he did not regain consciousness and next day Nandkishore died at 12 'O'clock in the noon. There is also similar evidence of Khillu (P.W-5), Halke (P.W-6) and Nonibai (P.W-7), who also stated that they had seen the respondents assaulting Nandkishore (deceased) by lathi causing him injuries and that Nandkishore died in the hospital as a result of injuries.

12. There is also corroborative medical evidence on record of Dr. R.K. Khare (P.W-8) and Dr. S.R. Gupta (P.W-9). Dr. S.R. Gupta (P.W-9) had conducted MLC of injured Nandkishore on 14.10.90 and found following injuries on his body:

(1) Contusion 4cm x 3cm on right TM joint above TM Joint.

(2) Contusion 3cm x 2cm on left temporal region in front of ear.

(3)Contusion 4cm x 2cm right parietal region behind parietal protuberance.

(4) Contusion 2 1/2 x cm 2 cm left hand dorsum.

13. According to Dr. S.R. Gupta (P.W-9), patient Nandkishore was in unconscious state and his condition was serious and was admitted in the surgical ward and he had advised X-ray of his skull and left hand. In the opinion of Dr. S.R. Gupta (P.W-9), the injuries of Nandkishore were caused by hard and blunt object within 24 hours. His MLC report (Ex.P-7) duly signed by him is also placed on record.

14. Dr. R.K. Khare (P.W-8), who conducted the postmortem examination on the dead body of deceased Nandkishore on 14.10.90, also found the following antemortem injuries on his body:

(1) Contusion- 3cm present over right temporomandibular joint.

(2) Contusion- 3cm x 2cm left temporal region, in front of ear.

(3) Contusion- 2cm right parietal region.

(4) Contusion- 2 1/2cm left hand over the dorsum.

(5) Abrasion 1 1/2cm right shoulder upper part.

15. On internal postmortem examination of the deceased, Dr. R.K. Khare (P.W-8) found as follows:

Right parietal bone fractured extending from midline downwards, vertically, extradural haematoma present over right side of cromium subdural haematoma present over right cerebral hemisphere.

16. In the opinion of Dr. R.K. Khare (P.W-8), the cause of death of the deceased was coma as a result of head injury caused by hard and blunt object and death of deceased Nandkishore (hereinafter referred to as 'deceased') had occurred within two to four hours since the postmortem examination. His postmortem report (Ex.P-6) is also placed on record.

17. The aforesaid witnesses, especially the five eyewitnesses were cross-examined in extenso. However, despite cross-examination, there is no escape from the conclusion that deceased Nandkishore died as a result of head injury, as clearly evident from the medical evidence, and thus he met a homicidal death.

18. As regards the ocular evidence, the trial court has disbelieved the evidence of five eyewitnesses including complainant Chhotelal (P.W-3) holding their evidence doubtful and suspicious for various reasons. One of the main reasons assigned by the trial court for discarding their evidence, is that the names of the several eyewitnesses examined by the prosecution were not mentioned in the FIR (Ex.P-

3) and the independent witnesses named as eyewitnesses were not examined by the prosecution, and all the five eyewitnesses were inter se related and their presence on the scene of occurrence was doubtful, plus they gave an invented version of having seen the murderous assault on the deceased. The trial court also held that the FIR (Ex.P-3) had interpolations in the dates and the time of its recording, which were not explained by the prosecution by examining the ascribe of the FIR (Ex.P-3); therefore, the FIR (Ex.P-3) was also doubtful and no compliance of Section 157 of Cr.P.C. was made to lend assurance to the correctness of the dates and facts mentioned in the FIR (Ex.P-3).

19. The trial court also held that the time of recording of the FIR (Ex.P-3) was noted as 1 P.M. on 14.10.90, while the time of death of deceased as recorded in merg inquest report (Ex.P-5), was shown to be 0:45 hours on 14.10.90, whereas the MLC report (Ex.P-7) of the deceased indicated the time of his medical examination as 1:30 A.M. on 14.10.90, which revealed a strange situation. According to learned Trial Judge, when the time of death of deceased was mentioned as 0:45 hours on 14.10.90 in the merg inquest report (Ex.P-5), how he could remain alive at 1:30 A.M. when he was shown to have been medically examined by doctor as shown in his MLC (Ex.P-7); in the aforesaid situation, the interpolations and the overwriting in the dates in the FIR (Ex.P-3) assumed significance rendering the whole prosecution case doubtful and suspicious.

20. We have carefully examined the aforesaid aspect and also considered the submissions made in this behalf. Now it is clearly evident from the testimony of complainant Chhotelal (P.W-3) that he had lodged the FIR (Ex.P-3) at Police Station Civil Lines, Chhatarpur and he also testified his signatures on Ex.P-3, which were marked as A to A and thus he validly proved the FIR. Complainant Chhotelal (P.W-3) also categorically deposed that after the incident, he had taken his brother Nandkishore (deceased) in unconscious condition first to his house, and when he did not regain consciousness, he took him to Chhatarpur Police Station by bullock-cart, and he reached Civil Lines Police Station around 12 or 1 'O' clock at night, where he lodged the report (Ex.P-3), which also bore his signatures.

21. There are no reasons to doubt the aforesaid statement of complainant Chhotelal (P.W-3), which remained virtually unchallenged in cross-examination and from his evidence, there remains no manner of doubt that soon after the incident complainant Chhotelal lodged the FIR (Ex.P-3) around 1 'O'clock at night on the same day. No doubt, there is some overwriting in the dates with 'initials', probably of the ascribe, showing the date of incident as 13.10.90 and date of recording of the FIR as 14.10.90 in place of 13.10.90, but that does not create any suspicion as to the actual date of the recording of the FIR, as it is a matter of common experience that such mistakes usually occur when the date of the calender changes after 12 'O' clock at night. This position is also reflected from the date mentioned as 13.10.90 below the signatures of A.S.I., which per se indicates the reason for overwriting in correcting the date of recording of the FIR as 14.10.90 after 12 'O'clock at night. Thus, some overwriting of the dates with initials in the FIR (Ex.P-3) is found to be self explanatory and did not require any clarification as to the overwriting in the dates. Moreover, if the trial court was vacillated in this behalf and had any doubt or required any clarification or explanation from the ascribe of the FIR, it could have very well summoned the ascribe of FIR. In our considered opinion, such a small overwriting in the date with 'initials' in the facts and circumstances of the instant case, does not create any suspicion as to the factum of the lodging of FIR (Ex.P-3) by complainant Chhotelal (P.W-3) around 1 'O'clock at night after the occurrence, particularly when no such questions as to the time and dates of lodging of the FIR were put in cross-examination to complainant Chhotelal (P.W-3), who was the author of the FIR and who duly proved his signatures and lodging of the FIR at Police Station Civil Lines, Chhatarpur around 1 'O'clock at night.

22. Similarly, no questions in cross-examination were put to the Investigating Officer U.S. Naidu (P.W-10), who had prepared the merg inquest report (Ex.P-5) as to the recording of the time as 0:45 hours as the time of death of Nandkishore, who could have explained as to how the time of death of deceased Nandkishore was recorded as 0:45 hours on 14.10.90 in the merg inquest report when he was medically examined by Dr. S.R. Gupta at 1:30 A.M. on 14.10.90. It is also pertinent to mention that Durjan (P.W-4), the brother of the deceased, who was also a witness to merg inquest report (Ex.P-5), also categorically deposed that

Nandkishore died next day at 12 'O'clock in the noon, which fact also remained unrebutted and unchallenged in the cross-examination, and which clearly indicates that recording of the time of death of deceased as 0:45 hours was a slip of pen or a human error in place of 12.45 P.M. Be that as it may, in absence of any dispute as to the time of death at 12 'O'clock in the noon on 14.10.90, as categorically deposed by Durjan (P.W-4), the factum of death of the deceased at 12 'O'clock in the noon on 14.10.90 could not be viewed with suspicion. Needless to point out that Dr. R.K. Khare (P.W-8), who conducted the postmortem examination of the deceased on 14.10.90 at 4 'O'clock, as per PM report (Ex.P-6), also opined that death of the deceased occurred within 2 to 4 hours since the postmortem examination.

23. In view of the aforesaid facts, in our opinion, it could not be said or suspected that the FIR (Ex.P-3) was ante dated and ante timed and therefore, non compliance, if any, of Section 157 of Cr.P.C. could not be said to be fatal to prosecution so as to throw its case, particularly when the investigation in the case had soon started, as is evident from the testimony of Investigating Officer U.S. Naidu (P.W-10) and the other witnesses.

24. No doubt, complainant Chhotelal (P.W-3), Durjan (P.W-4), Khillu (P.W-5). Halke (P.W-6) and Nonibai (P.W-7) are inter se related witnesses, as also related to the deceased, but It is well settled, as reiterated by the Apex Court in the case of Pulicherla Nagaraju @ Nagaraja Reddy v. State of Andhra Pradesh reported in 2006 AIR SCW 4143 that the evidence of a witness cannot be discarded merely on the ground that he is either partisan or interested or closely related to the deceased, if it is otherwise found to be trustworthy and credible.

25. Similarly, the evidence of number of eyewitnesses could not be discarded or disbelieved merely because their names were not mentioned as eyewitnesses in the FIR (Ex.P-3). The Apex Court in the case of State of Madhya Pradesh v. Dharkole @ Govind Singh and Ors. reported in : AIR 2005 Supreme Court page 44 held that non mentioning of the names of the eyewitnesses in the FIR by itself cannot be a ground to doubt their evidence as there is no requirement of mentioning the names of all the witnesses in the FIR. In the instant case

complainant Chhotelal (P.W-3) has also given a reasonable and natural explanation that he was not conversant of such requirement that names of family members, who reached the place of occurrence, should be mentioned in the FIR, which appears to be sound and acceptable.

26. Moreover, when we scan the testimony of the five abovementioned eyewitnesses, no glaring inconsistency or infirmity is found in their evidence. The few omissions or contradictions with their respective police statements attempted to be brought on record are not found to be so material or vital so as to distrust their basic version that they saw the respondents assaulting the deceased (Nandkishore) by lathi. Some exaggerations or wordy difference in the narration of the incident or sequence of events is bound to occur in the testimony of the witnesses and for that reason the entire evidence of the number of eyewitnesses cannot be thrown and discarded, if the sum and substance and essence of their version is found to be reliable and trustworthy.

27. Even if it is assumed for argument's sake, as submitted, that the wife of the deceased, namely, Nonibai (P.W-7) and Khillu (P.W-5), Halke (P.W-6) did not actually witness the occurrence and their presence on the scene of occurrence was doubtful, there are no cogent reasons to doubt or suspect the testimony of complainant Chhotelal (P.W-3) and his brother Durjan (P.W-4), who reached the place of occurrence immediately on hearing the screams of Nandkishore (deceased). There is no inconsistency in the evidence of complainant Chhotelal, who also lodged the FIR (Ex.P-3) and his brother (P.W-4); both of them categorically deposed that they reached the place of occurrence one after the other on hearing the screams of their brother Nandkishore (deceased) and saw four respondents assaulting him by lathi near Athai. The trial court suspected their evidence on the ground that it could not have been possible for them to have seen the respondents assaulting the deceased from the distance of 100 ft. when the incident occurred at about 7:30 in the evening when it gets quite dark. Again there was nothing on record to indicate that there was no source of light on the place of occurrence or visibility was so low that it was not possible for them to have identified the assailants. Besides, there was nothing on record to indicate that complainant Chhotelal (P.W-3) and his family members had any enmity with the

respondents so as to falsely implicate them. It also does not appeal to reason that complainant Chhotelal (P.W-3) or other relatives of the deceased would save his real assailant and would unnecessarily and falsely implicate the respondents without any rhyme or reason.

28. The trial court also discarded the evidence of complainant Chhotelal (P.W-3) on the ground that he claimed to have given the statement to the Police on the same day when his brother died, i.e. on 14.10.90, while his statement under Section 161 of Cr.P.C. was recorded by the Police on 15.10.90, which indicated that his statement recorded on 14.10.90 favouring the respondents was suppressed and a fresh statement was manipulated by the Investigating Officer on 15.10.90, though such suggestions were denied by the Investigating Officer U.S. Naidu (P.W-10). Again in face of the FIR (Ex.P-3), which was lodged by complainant Chhotelal (P.W-3) himself soon after the incident, such a suspicion or imputation appears to be without any basis. Needless to say that complainant Chhotelal (P.W-3) is a rustic villager and it is not expected of him that he would give one statement one day and manipulate another next day. Similarly, it does not appear from the evidence on record that the Investigating Officer had any axe-to-grind against any of the respondents so as to manipulate false statements against the respondents in order to falsely implicate them.

29. Needless to repeat that there are no reasons to doubt the oral testimony of complainant Chhotelal (P.W-3) that he saw the four respondents assaulting the deceased by lathi, which also stands substantially corroborated by the FIR (Ex.P-3) as well as by the evidence of Durjan (P.W-4). Complainant Chhotelal (P.W-3) has given a natural version that he had not named the fifth accused Jaggu as assailant in the FIR and he named him in his evidence in view of the statements made by the female members of his family, and he himself did not know whether Jaggu was there or not at the place of occurrence. Thus, the evidence of complainant Chhotelal (P.W-3) is found to be quite natural and trustworthy and does not create any doubt as to the veracity of his statement that he witnessed the respondents assaulting his brother by lathi near Athai, which also stands duly corroborated by the testimony of Durjan (P.W-4) as well as finds substantial corroboration from the medical evidence on record. Apparently, there is no

inconsistency or variance in the ocular and medical evidence.

30. Thus in our considered view, the ocular evidence, particularly the evidence of complainant Chhotelal (P.W-3) and Durjan (P.W-4) has been erroneously discarded by the trial court without any cogent and justifying reasons. It is well settled that the evidence of the eyewitness cannot be rejected or brushed aside for want of independent corroboration if it is found to be credible and reliable after careful scrutiny thereof. The Apex Court in the case of Pattu Lal v. State of Punjab reported in : AIR 1996 Supreme Court page 3197 has held that evidentiary value of a deposition, which is otherwise admissible and reliable is not just wiped out in the absence of corroboration. Thus the trial court erred in holding that the testimony of the eyewitnesses was not acceptable for want of independent evidence.

31. The other reasons assigned by the trial court for acquittal of the respondents are also not found to be proper. The trial court held that the merg inquest report (Ex.P-5), which was prepared in presence of complainant Chhotelal (P.W-3) and Durjan (P.W-4), never disclosed the names of the respondents as being the assailants of the deceased, nor there was any mention of their names in the PM requisition form, which rendered their complicity doubtful. Again in face of the FIR (Ex.P-3), wherein the names of the respondents were mentioned as assailants ab-initio, the mere non-disclosure of the names of the respondents in the merg inquest report did not create any suspicion with regard to the involvement of the respondents in the murderous assault on the deceased. The Apex Court in its three Judges' Bench decision rendered in the case of Radha Mohan Singh @ Lal Saheb and Ors. v. State of U.P. reported in : AIR 2006 Supreme Court page 951 has held that there is absolutely no requirement of law of mentioning of the FIR, name of the accused or the names of the eyewitnesses etc, in the merg inquest report. It would be profitable to refer to the following observation made by their Lordships in the aforesaid case:

It is well settled by a catena of decisions of this Court that the purpose of holding an inquest is very limited, viz., to ascertain as to whether a person has committed suicide or has been killed by another or by an animal or by machinery or by an

accident or has died under circumstances raising a reasonable suspicion that some other person has committed an offence. There is absolutely no requirement in law of mentioning the details of the FIR, names of the accused or the names of the eyewitnesses or the gist of their statement nor it is required to be signed by any eyewitness.

32. The trial court also suspected the prosecution case on the ground that the respondents were not arrested till 23.10.90, though the incident had occurred on 15.10.90 and the prosecution evidence did not disclose that the respondents were absconding. Again, If the Investigating Officer committed any mistake in the investigation or did not arrest the respondents till a particular date, i.e. 23.10.90, the evidence of eyewitnesses could not be overthrown or discarded on such a ground, nor any delay in the arrest of the respondents affects the credibility of the eyewitnesses or gives rise to any reasonable doubt in the prosecution case. The Apex Court in the case of Chhotanney and Ors. v. State of Uttar Pradesh and Ors. reported in : AIR 2009 Supreme Court page 2013 has held that doubts must be reasonable, actual and substantial doubts as to the guilt of the accused persons arising from the evidence, or from the lack of it, as opposed to mere vague apprehensions.

33. The trial court also doubted the seizure of lathi at the instance of respondents in absence of its corroboration by the public witnesses to memorandum and seizure memo, and noted some infirmities in the memorandum and seizure memo prepared by the Investigating Officer U.S. Naidu (P.W-10), but again any doubt or suspicion regarding the seizure of the lathi at the instance of respondents could not be a ground for acquittal of the respondents when there was bulk of direct evidence against them.

34. The trial court also doubted the involvement of the respondents on the ground that they had no motive to kill the deceased and prosecution failed to prove any such motive by the evidence on record. Needless to emphasize that when there is reliable ocular evidence on record, question of motive is hardly significant. The Apex Court in the case of Yunis @ Kariya v. State of Madhya Pradesh reported in : AIR 2003 Supreme Court page 539 has also held that establishment of motive is

not a sine-qua-non for proving the prosecution case.

35. The trial court on the basis of minor inconsistencies and improvements in the statements of the five eyewitnesses has doubted their presence on the spot and disbelieved their evidence, but as already discussed above, upon close scrutiny of the evidence of all five abovementioned eyewitnesses, we do not find any such serious infirmity so as to discard their evidence in toto, and particularly the evidence of complainant Chhotelal (P.W-3) and Durjan (P.W-4) is found to be quite cogent and trustworthy and the evidence of these two eyewitnesses alone coupled with the corroborative medical evidence can become the basis for conviction of the respondents for causing death of Nandkishore.

36. There can be no dispute with the legal preposition, as submitted by the learned Counsel for the respondents, that in an appeal against acquittal even if two views are possible from the evidence on record, the view favouring the accused person should be adopted and interference should not be made. At the same time, however, as held by the Apex Court in the case of Kallu alias Masih and Ors. v. State of M.P. reported in : (2006) 10 Supreme Court Cases page 313 while deciding the appeal against acquittal the power of the appellate court is no less than the power exercised while hearing the appeals against conviction and in both the types of appeals power exists to review the entire evidence and if the trial court unreasonably disbelieves the evidence of eyewitnesses on insufficient ground, interference in the order of acquittal can be made.

37. We need not repeat that upon careful scanning of the entire evidence on record, we find that the evidence of the eyewitnesses, particularly that of complainant Chhotelal (P.W-3) and Durjan (P.W-4) coupled with the corroborative medical evidence is reliable and acceptable and it leads to only one conclusion that the four respondents assaulted the deceased by lathi causing him several injuries resulting into his death; there is no other view possible from the evidence available on record. It is also clearly evident from the ocular evidence on record that the four respondents collected near Athai in the village with a planning and attacked the deceased when he was returning in the evening from the well with his cattle and conjointly assaulted him with lathi causing such injuries that he fell

unconscious and ultimately died. It is thus manifest that the respondents intentionally caused his death.

38. The citations referred to by learned Counsel for the respondents reported in : AIR 1971 Supreme Court page 1586 : AIR 1993 Supreme Court page 1469 : AIR 1994 Supreme Court page 250 : 2004(3) M.P.H.T. page 406 : (2004) 9 Supreme Court Cases page 193 : (2006) 9 Supreme Court Cases page 731 (2006) 12 Scc 626 : AIR 2002 Supreme Court page 175 are distinguishable on facts and are of no assistance to the respondents in the facts and circumstances of the instant case.

39. In the wake of aforesaid and for foregoing reasons, we are of the view that the trial court has recorded the acquittal of the respondents on flimsy grounds and discarded the ocular evidence without any compelling and justifying reasons. We have no hesitation to say that the view taken by the trial court and the findings recorded by it are against the evidence on record and can be termed as perverse.

40. In the aforesaid circumstances and in view of the evidence available on record, we set aside the impugned judgment of the acquittal of the respondents and find them guilty for intentionally causing death of Nandkishore. Accordingly, we convict the four respondents under Section 302/34 of IPC and sentence each of them to imprisonment for life.

41. Respondents are on bail. They shall surrender to their bail bonds to serve out the life sentence.

Appeal is accordingly allowed and stands disposed of.

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