

The State of Rajasthan

Vs

Laxmidan and Others

Criminal Appeal No. 247(N) of 1968

(K. S. Hegde, A. N. Grover JJ)

23.04.1971

JUDGMENT

GROVER, J. -

1. This is an appeal by Special Leave from a judgment of the Rajasthan High Court acquitting the respondents of the charges under Section 147 and Section 302 read with Section 149 of Indian Penal Code.
2. The respondents are related closely to one another. Udaibhan is the father of Bachandan, the other three Laxmidan, Naraindan and Durgadan are the nephews of Udaibhan. They are all residents of village Jhakar in the District Sirohi. Murardan deceased was also a resident of that village. The occurrence is alleged to have taken place on December 27, 1963, at about 11 a.m. in the field of Meghla Ghanchi which is at a distance of about half a mile from the village Jhakar. It was alleged that some dispute had been going on between the respondents and the deceased Murardan over some agricultural land. Udaibhan (Respondent) wanted to take possession of the land of the deceased which was resented by the deceased. There was thus bitterness between Udaibhan and Murardan. According to the first information report which was made by Badridan P.W. 3 he was proceeding to Kutala-ki-Dali on his bullock cart for bringing some Bajri. His brother Panchudan was also coming behind him. On the way, Badridan heard the cries of Murardan. Badridan left his cart and went to Meghla Ghanchi field from which side the cries were coming. He and his brother saw the respondents giving Lathi blows to Murardan from a distance of 40 to 50 paces.
3. The prosecution evidence consisted mainly of Badridan P. W. 3, Panchudan P.W. 15 and Tolia P.W. 10. The Additional Sessions Judge, who tried the respondents disbelieved the evidence regarding recovery of blood-stained clothes and Lathis on which also the prosecution had relied but he proceeded to convict the respondents on the evidence of the eye-witnesses and of Mohandan P.W. 8. Each one of them was awarded a sentence of life imprisonment under Section 302 read with Section 149 and to one year's rigorous imprisonment under Section 147 of the Indian Penal Code.
4. The High Court carefully scrutinised the evidence of Badridan P.W. 3 and Panchudan P.W. 15 and disbelieved them for various reasons. Firstly, these two witnesses were close relatives of the deceased Murardan. Secondly, their relations with the respondents were highly estranged. Thirdly, they were chance witnesses and claimed to have reached the spot just at the crucial moment when Murardan was being attacked by the respondents. It was pointed out that the prosecution had failed to produce any corroborative evidence with regard to the reasons given by the two witnesses for going to Kutela-ki-Dali. Moreover, it was found that they were alleged to have witnessed the occurrence from a distance of 700 feet. They could not have, therefore, possibly identified their

assailants. As regards Tolia P.W. 10, his evidence was carefully considered and it was found that the distance from which he was stated to have seen have occurrence was 550 feet and there was a thorn fencing intervening between his field and the field where the occurrence took place. The Additional Sessions Judge had also relied on the evidence of Mohandan P.W. 8, but that was disbelieved by the High Court for good reasons.

5. The appreciation of evidence by the High Court was so clear and well-reasoned that we are unable to find any merit in this appeal which is directed against the acquittal of the respondents. Indeed, apart from pressing the findings of the Trial Judge the learned counsel for the State has not been able to show how in a case like this the judgment of acquittal of the High Court should be reversed. The appeal fails and is dismissed.

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