

Barot Ram Vishram

Vs

The State of Gujarat

Criminal Appeal No. 110 of 1972

(P.N. Bhagwati, A.C. Gupta, P.N. Shinghal JJ)

04.11.1976

JUDGMENT

BHAGWATI, J. –

1. This appeal by special leave is directed against an order passed by the High Court of Gujarat reversing the acquittal of the appellant and convicting him of the offence under Section 302 and sentencing him to suffer imprisonment for life.
2. The appellant was accused 1 in Sessions Case 25 of 1969 and he was tried along with accused 2 to 4 for intentionally causing the death of two persons, namely, Palu Manga and Samat Manga in furtherance of their common intention. The learned Sessions Judge, who tried the case, thought that the evidence led on behalf of the prosecution was not sufficient to bring home the guilt against the appellant and the other three accused and he accordingly acquitted them by giving them the benefit of doubt. The State of Gujarat preferred an appeal was allowed by the High Court in so far as the appellant was concerned and his acquittal was set aside and he was convicted of the offence of intentionally causing the death of Palu Manga and Samat Manga under Section 302 and sentenced to suffer life imprisonment, but so far as other three accused were concerned, the High Court agreed with the view taken by the Learned Sessions Judge that the offence against them was not proved beyond reasonable doubt and confirmed their acquittal. The appellant thereupon preferred the present appeal under Section 2(a) of the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970.
3. We have carefully gone through the evidence and considered the arguments advanced on behalf of the appellant, but we do not see any reason to interfere with the conclusion reached by the High Court. The High Court has given clear and cogent reasons for reversing the acquittal of the appellant and convicting him and we find ourselves in agreement with those reasons. The broad probabilities of the case clearly indicate that the appellant and his party were the aggressors and the attack must have been commenced by them. If Palu Manga, Samat Manga and their companion Nagajan Kheta were the aggressors, it is difficult to believe that the appellant should have escaped with minor injuries and on the side of the aggressors, two out of the three persons should have died, If we look at the medical evidence, it is clear that the injuries received by Palu Manga and Samat Manga were so serious that the resulted in their death. It is not possible to believe that Palu Manga, and Samat Manga and Nagajan Kheta went to the field of Vala Jetha where the appellant was keeping watch and started the attack on him. If, as alleged by the appellant, Samat Manga was armed with a dharia and gave a dharia blow on the head of the appellant, it is difficult to understand why there was no incised injury on the person of the appellant. Moreover, it is obvious that if Palu Manga was armed with a gun, as stated by the appellant, he could have easily used his gun from a distance and fired a

shot at the appellant, particularly when, according to the appellant, he ran into the field of Laxman Punja, and Palu Manga, Samat Manga and Nagajan Kheta chased him. It is impossible to imagine how the appellant who was chased from the field of Vala Jetha into the field of Laxman Punja by three armed persons could not only escape with minor injuries but fatally injure two of his chasers. The nature of the injuries received by the appellant on the one hand and Palu Manga and Samat Manga on the other is eloquent and clearly reveals that the appellant and his party were the aggressors and if that be so, it bears out without doubt, the broad substance of the prosecution story. We accordingly affirm the view taken by the High Court and hold that the High Court was right in reversing the acquittal of the appellant and convicting him of the offence under Section 302 of intentionally causing the death of Palu Manga and Samat Manga.

4. The appeal will, therefore, stand dismissed.

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