

SUPREME COURT OF INDIA

Revappa Deogonda Bagle

Vs.

State of Maharashtra

Crl.A.No.13 of 1972

(S. Murtaza Fazl Ali and P. S. Kailasam, JJ.)

17.01.1977

JUDGEMENT

FAZAL ALI, J.:-

1. In this appeal by special leave, the appellants have been convicted under S. 302 read with S. 34 of the Indian Penal Code and sentenced to imprisonment for life for having committed the murder of deceased Sharnappa. The prosecution case has been detailed in the judgments of the Sessions Court and that of the High Court. Briefly put, the occurrence appeared to have arisen out of some differences between the deceased and the appellants, who are his first cousins. A few years ago the deceased is said to have eloped with the wife of the accused Revappa and was trying to induce the wife of the other appellant also. This is suggested to be the immediate motive for the murder. According to the prosecution, on the date of occurrence, when the deceased went to his cattle-shed with some chanted threads, he asked P. W. 3 Shiv Shankar to put the threads around bullocks. While he was returning to the field he was accosted by the two appellants who jointly attacked him with axes causing very serious injuries on his head and neck, as a result of which the deceased died. A report was immediately lodged at the Police Station before Police Patil and after due investigation a charge sheet was submitted against the appellants. The defence was that the appellants were innocent and falsely implicated due to enmity. The central evidence against the appellants consist of

the testimony of P. W. 3 Shiv Shankar, who is the main eyewitness in the case. His evidence is corroborated by P. W. 8 Dharmanna Basvant and P. W. 9 Sangappa Gursidappa and P. W. 11 Dharmanna Birajdar, who saw the accused running away immediately after the occurrence. We have gone through the medical report, which fully corroborates the joint assault made by the appellants on the deceased. Courts below have carefully appreciated the evidence on record and have come to the conclusion that the prosecution has proved its case beyond reasonable doubt. The Sessions Judge, however, thought that the case, made out by the prosecution was one under Section 325, I.P.C. and he accordingly convicted the accused under that section. On appeal by the State to the High Court, the High Court took the view that the judgment of the Sessions Judge was wrong and that the case made out by the prosecution was one under Ss. 302/34, I.P.C. simpliciter.

2. Having gone through the evidence of the witnesses and having read the judgment of the High Court we are satisfied that the case of murder against both the appellants has been clearly made out. Mr. V. Maya Krishnan, appearing for the appellants, submitted that no reliance should be placed on P. W. 3 Shvi Shankar because he was interested. Even if it is so, this is no ground to distrust his testimony, particularly when he has been believed by the courts of facts. It was then argued that the entire genesis for the occurrence vanishes because from the post-mortem report it would appear that the chanted threads were found from the person of the deceased. This argument does not lead us anywhere because there is nothing to show that all the chanted threads that the deceased had brought with him were given to P. W. 3 Shiv Shankar and no thread remained with him. Lastly, it was argued that there was some discrepancy in the evidence in the some of the witnesses have said that the occurrence took place while the complainant was returning from his field to his home. These are very minor discrepancies which have been considered by the courts below. As both the appellants made a joint attack on the deceased causing his death, Ss. 302/34, I.P.C. clearly apply to this case

3. For the reasons given above, we confirm the conviction of the appellants and dismiss the appeal.

Appeal dismissed.