

Ram Janam

Vs

State of U. P.

Criminal Appeal No. 123 of 1972

(Syed M. Fazal Ali, O. Chinnappa Reddy JJ)

28.02.1979

JUDGMENT

FAZAL ALI, J. –

In this appeal by special leave, the appellant has been convicted under Section 302 IPC and sentenced to imprisonment for life. We have heard learned counsel for the parties and have gone through the judgment of the courts below. We do not find any merit so as to warrant our interference. Appearing for the appellant, Mr. R. K. Garg, argued two points before us. In the first place, he submitted that as the Sessions Judge has disbelieved the main witness PW 2, Smt. Kaushalya with respect to the other three accused, Hanuman, Baldeo and Sukhdeo, her evidence should not have been accepted with respect to the appellant. We have gone through the evidence of Mst. Kaushalya and we are not in a position to agree with Mr. Garg that she should have been completely disbelieved by the courts below. So far as the appellant is concerned, she grappled with the appellant and had received injuries at the hands of the appellant apart from the injuries which the appellant caused to the deceased. In the circumstances, therefore, she was the most competent witness to depose regarding the participation of the appellant in the occurrence both with respect to the injuries caused to her and to the deceased. Secondly, it was argued that there is serious doubt regarding the identification of the appellant as there appears to be no light. In this connection, reliance was placed on the fact that one of the witnesses failed to identify the torch produced in court. That by itself, however, does not put the prosecution case out of court because there is clear evidence of PW 2 that a lantern was burning in the 'angan' where the occurrence took place, and the existence of the lantern was also mentioned in the FIR and it was also seized by the Investigating Officer on the spot. In the circumstances, therefore, there was sufficient light to enable the eyewitnesses to identify the appellant. There is, therefore, no merit in this appeal. It is accordingly dismissed.

</html