

SUPREME COURT OF INDIA

Mohanlal Hargovind Dass

Vs.

Ram. Narain

Crl.A.Nos.175 and 176 of 1972

(S. Murtaza Fazl Ali and A. D. Koshal, JJ.)

23.03.1979

JUDGEMENT

FAZAL ALI, J.:-

1. These appeals by special leave are directed against the judgment and order of the Allahabad High Court acquitting the respondents Ram Narain, Ram Piarey and Ram Achal of the offence under S. 395 I. P. C. of which they were convicted by the Sessions Judge.

2. A detailed narrative of the prosecution story has been given in the judgment of the Sessions Judge and the High Court and it is not necessary for us to repeat the same all over again. Briefly put the allegation of the prosecution is that the Allahabad office of the Factory, a branch of which was situated in village Kareha had to disburse some payments to the contractors at Kareha in the District of Allahabad, which is about 25 to 30 miles away. Apart from Kareha there were other branches also where certain payments had also to be made. For this purpose on 1-11-1966, the Head Office at Allahabad sent a jeep carrying the driver Madho Ram P. W. 12 and the Accountant of the Factory Ramesh Chandra. P. W. 5, with a sum of Rupees 70,000/- out of which Rs. 7,000 was to be

disbursed at the Kareha, Rupees 11,000/- to be disbursed at Karma and other branches near about the place. The remaining amount of Rs. 52,000/- was to be paid to the other branches situated across the Ganges. It appears from the evidence of Ramesh Chandra at p. 44 of the paper book that other branches on the trans-Ganga where the money was to be disbursed did not lie on the way to Kareha but the jeep had to return to Allahabad for going to these villages for disbursing the amount. This fact is rather important because it introduced an element of an inherent improbability in the prosecution story. It is stated that when the jeep reached village Kareha, it was surrounded by the accused persons and one of the accused viz. Ram Narain snatched the bag from the hand of Ramesh Chandra was whipped out a pistol in order to scare away the crowd. Thereafter, the dacoits left on a horse back. The tyres of the jeep had been punctured before the dacoity took place.

3. The respondents pleaded innocence and denied their participation in the dacoity.

4. The learned Sessions Judge after considering the evidence came to the conclusion that the prosecution case was proved against the three respondents and convicted them as indicated above. Thereafter the accused respondents Ram Narain, Ram Piare and Ram Achal filed an appeal before the High Court of Allahabad against their conviction and the sentences imposed on them. The High Court after hearing the appeals, found that the prosecution case was not proved and accordingly acquitted the aforesaid respondents. Thereafter both the State as well as the complainant, filed application for special leave to appeal in this Court and after obtaining special leave the appeals have been placed before us.

5. We have gone through the judgment of the High Court and we find that the prosecution case is fraught with inherent improbabilities and it is difficult to accept that a dacoity of the kind suggested by the prosecution could ever take place. One of the important grounds taken by the High Court was that the accused Ram Narain was a very respectable person being in the employment of the factory and also a landlord of the premises where the factory was situated and was also a Sarpanch. In the circumstances, it would be difficult to believe that the Respondent Ram Narain would commit a daylight dacoity in the same village where the factory was situated at a distance of only 25 to 30 paces from the factory itself so as to be identified at the spot. We are of the opinion that there is great substance in the argument of the High Court. Apart from this, there are other circumstances which militate against the prosecution version. According to the evidence of P. W. 5, Ramesh Chandra, it is clear that Kareha and the other branches where the money was to be disbursed are situated on two different sides of Allahabad. In this connection, the witness stated thus:-

"After giving the amount to both the branches which are at Jamunapar one has to go Gangapar after coming back to Allahabad. Similarly from the branches which are at Gangapar, one has to go to Jammunapar after coming back to Allahabad."

In view of the evidence of this witness, the position is that the party in the Jeep would have first to

go to Kareha and Karma and then come back to Allahabad and thereafter proceed to the other villages where the branches on the trans-Ganges side were situated. In these circumstances it would have been more practicable first to disburse the amount of Rs. 18,000/- at Kareha and Karma and after the Jeep returned to Allahabad, the balance of Rs. 52,000/- would have been given to P. W. 5 for disbursement to the branches situated in other villages across the Ganges. There was neither any occasion nor any necessity to send such a huge amount of Rs. 70,000/- and that too without obtaining any armed escort or sending some more people duly armed to protect against any untoward incident. Nothing of this sort was done. In these circumstances, therefore, a serious doubt arises regarding the manner in which the incident is alleged to have taken place. Mr. Uniyal appearing for the State submitted that the reasons given by the High Court for rejecting the evidence of witnesses are not well grounded. It is true that we may not be in a position to agree with some of the reasons given by the High Court but on a general survey of the prosecution case and perusal of the evidence, we are not in a position to hold that the view taken by the High Court was not reasonably possible, or that the judgment of the High Court was in any way perverse. It may be that on the evidence we might have taken a different view but that does not justify the reversal of the order of the High Court. For the reasons given above, we find no merit in the appeals which are accordingly dismissed.

Appeals dismissed.