

Jhabla

Vs

State of Madhya Pradesh

Criminal Appeal No. 99 of 1975

(R. S. Sarkaria, A. C. Gupta JJ)

05.08.1980

JUDGMENT

SARKARIA, J. –

1. Nine persons including the appellant were tried by the Additional Sessions Judge, Mandleshwar, in respect of offences, under Sections 148 and 307 read with Section 149, Indian Penal Code. There were eight eye-witnesses in the case. The learned Trial Judge disbelieved the story propounded by the eye-witness and acquitted all the nine accused. On appeal by the State the High Court has reversed the acquittal of Jhabla, the appellant, while maintaining the acquittal of the remaining accused persons.

2. In acquitting Jhabla of the charges against him the trial court gave three main reasons. Firstly, that there was discrepancy in the statements of the eye-witnesses with regard to the place and the posture in which Jhabla was at the time he fired the gun by which Anarsingh was injured. Secondly, there were a large number of possible eye-witnesses of the locality, none of whom had been examined by the prosecution, although the Investigating Officer had interrogated those persons, but none of them according to him, threw any light as to how the occurrence took place. The third main reason given by the trial court was that according to Gulabsingh (PW 15), he had heard the report of gunfire at about 8 or 9 p.m., indicating that the occurrence took place at 8 or 9 p.m. when it was dark, and identification of the assailants was difficult. The High Court has effectively dispelled all these reasons and blown them to smithereens. We agree with the High Court that the reasons given by the trial court for acquitting Jhabla were clearly erroneous. We, therefore, do not find any good ground for interfering with the order of the High Court. The appeal fails and is dismissed. The accused Jhabla, shall surrender to his bail to serve out the sentence inflicted upon him by the High Court.

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