

Tara Singh

Vs

State of Madhya Pradesh

Criminal Appeal No. 187 of 1973

(O Chinnappa Reddy, R. S. Sarkaria JJ)

17.09.1980

JUDGMENT

1. This appeal is under the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970. The appellant was tried for the murder of one Shankar. The prosecution story was that he had, following a scuffle with the deceased, stabbed the deceased with a knife, causing three injuries, resulting in his death. The plea taken up by the accused at the trial was one of private defence. The trial Court after a careful appraisal of the evidence of the eyewitnesses, PW 13, PW 15, and DW 1, accepted that plea and acquitted the appellant. On appeal by the State, the High Court has reversed the acquittal and convicted the appellant under Section 302, Penal Code.

2. We have carefully examined the material evidence on the record with the aid of the learned counsel on both sides and have also considered the arguments advanced by them. In our opinion, there was no cogent reason for reversing the acquittal. The evaluation made by the trial Court of the evidence of the material witnesses on this point, did not suffer from any illegality, manifest error, or perversity. The evidence of DW 1 which was accepted by the trial Court, was not at all considered by the High Court, DW 1 was an important witness and his evidence, if accepted, would have gone a long way to establish the plea of private defence are reasonably possible - one supporting the acquittal and the other indicating conviction - the High Court should not in such a situation reverse the order of acquittal recorded by the trial Court. This salutary principle appears to have been overlooked by the High Court. We therefore allow this appeal, set aside the conviction of the appellant recorded, by the High Court and acquit the appellant. The bail bonds of the appellant are discharged.

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