

Madho Ram and Others

Vs

State of Uttar Pradesh

Criminal Appeal No. 271 of 1975

(Syed M. Fasal Ali, A. D. Kpshal JJ)

13.11.1980

JUDGMENT

FAZAL ALI, J. –

1. This appeal by special leave is directed against a judgment of the Allahabad High Court confirming the conviction of the appellants for offences under Sections 302 and 325 read with Section 149 of the Indian Penal Code as also for some less serious offences.
2. The detailed facts of the case have been given in the judgment of the Sessions Judge and that of the High Court and it is not necessary for us to repeat the same.
3. The appeal being by special leave we can interfere only if we find that there is some gross violation of any principle of law or a serious miscarriage of justice. Having gone through the judgment of the High Court which is a well-reasoned one and has considered all the aspects of the prosecution case, we find ourselves in complete agreement therewith.
4. It is true that the High Court has rejected a good part of the prosecution case regarding the motive or the actual cause of the occurrence but it has accepted the main details of the occurrence which resulted in injuries to three persons and death of two others. It has made a very scientific approach to the case, has given the maximum possible benefit of doubt to those of the accused against whom there were no sufficient materials, and has taken care to convict only those accused persons (namely, the appellants before us) whose participation in the assault was proved beyond reasonable doubt.
5. Mr. Goyal appearing for the appellants submitted that having disbelieved the essential details of the prosecution case, the High Court ought not to have convicted the appellants but should have acquitted all the accused. In the first place, the High Court has not disbelieved the essential details of the prosecution case but has merely tried to disengage the truth from falsehood, the grain from the chaff and in this process it has acquitted all those accused against whom the evidence was not acceptable or who could be reasonably suspected of having been implicated due to enmity. The standard adopted by the High Court was that where an accused was shown to have taken part in the assault armed with a weapon which actually caused injuries to the prosecution witnesses or the deceased, he was to be convicted. As between the deceased and the injured prosecution witnesses there were as many as 60 injuries circumstances it cannot be said that there was a free fight between complainants' party and the accused. The occurrence, according to the High Court, had taken place at an appreciable distance from the field in dispute and there was no justification for the accused persons to have engaged themselves variously armed with deadly weapons in a fight with the prosecution party and caused fatal injuries on the two deceased and serious injuries to three others.

Mr. Goyal specially stressed the fact that the evidence shows that the prosecution party had used lathis and argued that this would indicate that the appellants, if at all, had morally exceeded the right of private defence. We are however unable to agree with this argument because if members of the prosecution party were attacked by the accused persons, variously armed, they had to defend themselves and if they wielded lathis in self-defence, that would not give any right of private defence to the appellants. The fact of the matter is that none of the appellants had received any injuries as a result of the blows given by some of the prosecution witnesses. Having carefully considered the evidence and circumstances of the case coupled with the scientific analysis made by the High Court, we are not at all satisfied that it is a fit case which calls for our interference. Accordingly, we find not merit in the appeal which is dismissed.

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