

State of Madhya Pradesh

Vs

Dayaram S/O Hemraj

Criminal Appeal No. 252 of 1975

(O. Chinnappa Reddy, Baharul Islam JJ)

17.02.1981

JUDGMENT

1. The sole respondent in this appeal was convicted by the learned Sessions Judge, Sagar of the murder of his wife and child. On appeal the High Court of Madhya Pradesh acquitted the respondent of both the charges. The State has preferred this appeal. After having been taken through the relevant record by the learned counsel for the State and Shri Bhagat, who appeared as amicus curiae for the respondent, we do not think that this is a fit case for interfering with the order of acquittal. The conviction by the trial Court was based on an extrajudicial confession said to have been made by the accused to PWs 1, 7 and 10 and a judicial confession recorded by the learned Magistrate. The High Court rejected both the confessions. We think that the High Court did so for proper reasons. The confession recorded by the magistrate was recorded in the form of questions and answers. The record shows that he was virtually cross-examined and whatever he said was in answer to leading questions put by the learned Magistrate. We think that the confession was rightly excluded by the High Court. The extrajudicial confession said to have been made by the accused to PWs 1, 7 and 10 does not also inspire much confidence. The High Court has noticed several discrepancies regarding the persons to whom the confession was made, the occasions when the confession was made and what precisely was said by the accused. Having regard to these discrepancies, we do not think that we would be justified in taking a different view from the view taken by the High Court when we are dealing with an order of acquittal.

2. The appeal fails and is dismissed.

3. We are grateful to Shri Bhagat for the assistance rendered by him.

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