

Bhure Khan

Vs

State of Madhya Pradesh

Criminal Appeal No. 95 of 1982

(V. D. Tulzapurkar, A. P. Sen JJ)

12.02.1982

JUDGMENT

1. Special leave granted.

2. The conviction of the appellant, Bhure Khan, rests purely on recovery of a torch and currency notes of the value of Rs 235 found with him. The identification of these two articles is not satisfactorily proved as forming part of the corpus delicti. Chakradhar Singh failed to identify Bhure Khan at either of the two identification parades and his identification in court will not help the prosecution. So far as the torch is concerned it is a very common article and no particular mark appearing thereon has been indicated as enabling Chakradhar Singh to identify it as belonging to him. As regards the currency notes it is true that these have not been claimed by Bhure Khan as his money but till these notes are established to be the subject-matter of the dacoity which occurred at Chakradhar Singh's place the appellant is not called upon to explain its possession. For these reasons it would be difficult to maintain the conviction of Bhure Khan. The appeal is therefore allowed and the appellant is acquitted of the charge under Section 397, IPC and Section 395, IPC.

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