

Bhanwar Lal

Vs

State of Rajasthan

Criminal Appeal No. 224 of 1974

(CJI Y. V. Chandrachud, D. A. Desai, M. P. Thakkar JJ)

27.09.1984

JUDGMENT

CHANDRACHUD, C.J. –

1. Four persons were tried by the learned Sessions Judge, Bhilwara, under Section 302 read with Section 34 of the Penal Code. The learned Judge acquitted three out of the four accused and convicted only one of them, namely, Kanahiya Lal. The High Court of Rajasthan confirmed the conviction of Kanahiya Lal, as also the acquittal of two out of the three persons who were acquitted by the Section Judge. The High Court, however, set aside the acquittal of the appellant, convicted him under Section 302 read with Section 34 of the Penal Code, and sentenced him of life imprisonment.

2. Since the High Court has set aside an order of acquittal and has sentenced the appellant to life imprisonment, it is necessary to consider whether two views of the evidence are reasonably possible and whether, the High Court was justified in setting aside the order of acquittal passed by the trial court in favour of the appellant. Having approached the case and assessed the evidence from that point of view, we are of the opinion that it is impossible to agree with the view taken by the trial court. The High Court has specifically dealt with the reasons given by the trial court in support of the order of acquittal and has demonstrated in a good measure as to why those reasons cannot be accepted. We concur in the High Court's appreciation of evidence.

3. The incident out of which the prosecution arose happened at about 8 p.m. on September 29, 1968 at Bhilwara, Rajasthan, leading to the death of one Gyanchand. The motive for the offence is alleged to be that Gyanchand's brother, Nemi Chand, owed money to accused 3 and 4, Ram Niwas and Badri Lal. Nemi Chand was evading to pay the debt which created bitterness between the two brothers on one hand and accused 3 and 4 on the other. The latter, it is alleged, procured the help of the appellant and of Kanahiya Lal in doing Gyanchand to death.

4. The prosecution examined a few witness in support of its case but it is unnecessary to refer to the evidence of each one of them. The most important witness in the case is Bodu Lal (PW 2). He is an independent witness, in whose cycle rickshaw the appellant and the co-accused Kanahiya Lal travelled from the hotel of Shankar Maharaj to the scene of offence. Bodu Lal identified the appellant in the identification parade. According to his evidence, the appellant was wearing a yellow baniyan at the time of the incident. When the appellant was arrested, a yellow baniyan was found on his person and it was stained with human blood. A knife stained with human blood was also recovered from his person.

5. The High Court has convicted the appellant relying on the evidence of Bodu Lal, as corroborated by the discovery of the blood-stained baniyan and knife. This evidence seems to us unassailable. Accordingly, we dismiss this appeal and confirm the Judgment of the High Court.

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