

Lok Pal Singh

Vs

State of M. P.

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Vs

Charli Raja and Others

Criminal Appeal No. 25 of 1984

(P. N. Bhagwati, Syed M. Fazal Ali, A. Varadarajan JJ)

31.03.1985

JUDGMENT

FAZAL ALI, J. -

1. The appellant, Lok Pal Singh, has been convicted by the High Court under Section 302/34 IPC for murder of six persons which took place on September 25, 1981 at about 2.00 a.m. The facts of the case have been narrated in the judgment of the High Court and Sessions Court and it is not necessary for us to repeat the same.

2. It appears that according to the prosecution case the accused inspired by unholy spirit of revenge and retaliation entered the house of the deceased persons at 2.00 a.m. on September 25, 1981 and killed as many as six persons in the house and one in the field. This was a most cruel and heinous murder and once the offence is proved then there can be no other sentence except the death sentence that can be imposed.

3. The Sessions Judge acquitted all the accused except Lok Pal Singh and Charli Raja but the High Court while maintaining the conviction and sentence of Lok Pal Singh, set aside the conviction and sentence of Charli Raja. The High Court was not satisfied about the complicity of Charli Raja in the occurrence but there is overwhelming evidence so far as Lok Pal Singh is concerned, inasmuch as he has been identified by PWs 2, 3 and 6 by voice and as an eyewitness by PW 5, who fully knew the accused-appellant, Lok Pal Singh. It was not a case where it could be said that the witnesses, PWs 2, 3 and 6, saw the appellant Lok Pal Singh for a split of a second but these witnesses could easily recognise the accused. It appears that the offence took a pretty long time inasmuch as a number of acts were committed and as many as six persons were killed in the house in the course of which the assailants went from room to room in order to make a detailed search for all their victims. Moreover, there was evidence that a torchlight was used by the appellant. Apart from this, PW 5, who as indicated before was the most competent witness and a full-fledged eyewitness narrated the entire story as seen by her. She has specifically named appellant Lok Pal Singh as one of the culprits. There is clear evidence that the appellant Lok Pal Singh and others were armed with guns and they participated in the murder of the deceased either by presence or by committing overt acts of shooting. The evidence of PW 5 further proves that Lok Pal Singh took a leading part in entering

the house and aided and assisted the others in murdering the six persons in the house. The High Court has upheld the finding of the Sessions Court in respect of Lok Pal Singh. We do not find any reason to interfere with the conviction of the appellant, Lok Pal Singh.

4. As regards the State appeal against acquittal of Charli Raja, the High Court felt that there was some doubt about his complicity in the affair. The High Court has given cogent reasons for entertaining the doubt which is apparent from the finding of the High Court. The High Court observed :

If it was a fact that out of fear the witnesses were not prepared to give out the name of Charli Raja then they would not have also given out the name of Lok Pal Singh whose name did appear in the case diary statements of eyewitnesses....

So benefit of doubt has to be given to Charli Raja, since it is not possible to say that the case has been proved beyond doubt against him.

5. It was, however, submitted by Mr. U. R. Lalit that he must have participated in the offence along with others and was wrongly acquitted by the High Court. It is true that the language of the FIR may lead to this impression but read as a whole it does not establish the presence of the accused with absolute certainty. On the other hand, the description of Charli Raja given by PW 5 does not tally with his features and stature. The High Court has further relied on some vital discrepancies regarding the evidence of PW 5 in respect of Charli Raja in her earlier statement given before the police. Thus, after going through the evidence, however, although there may be a possibility of Charli Raja being there, yet the possibility of his not being a participant in the murders cannot be reasonably excluded. For these reasons, we are not in a position to accept the appeal of the State and hereby maintain the acquittal of Charli Raja.

6. Coming now to the question of sentence, so far as Lok Pal Singh is concerned, it was urged by counsel for the appellant that as the accused Lok Pal Singh is a young man between 18 to 20 years, he should not be given the maximum penalty of death sentence. We are however, unable to accept his contention because participation of Lok Pal Singh along with others have been clearly proved. In a murder of six persons in the house and one in the field in which Lok Pal Singh participated, along with others known or unknown, is immaterial as Lok Pal Singh actually took a leading role in the murders committed and, therefore, clearly shared the common intention of the murder. There does not seem to be any reason why any leniency should be shown to the appellant. This is a most cruel, heinous and dastardly murder and there is no extenuating circumstance for reducing the sentence of death to imprisonment of life. We, therefore, uphold the conviction and sentence imposed by the High Court and Sessions Court so far as Lok Pal Singh is concerned. We further confirm, for the reasons given above, the acquittal of Charli Raja.

7. In view of the above findings, both the appeals are dismissed.

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