

Lalli alias Chiranjib Bhowmick Son of Annada Chandra Bhowmick

Vs

State of West Bengal

Criminal Appeal No. 582 of 1982

(D. P. Madon, B. C. Ray JJ)

11.03.1986

JUDGMENT

MADON, J. -

1. The appellant along with some of his co-accused was convicted and sentenced by the Additional Sessions Judge, 11th Court, Alipore, under Section 396 read with Section 34 of the Indian Penal Code to imprisonment for life. The appellant as also the same co-accused were also convicted and sentenced under Section 201 read with Section 34 of the Indian Penal Code to rigorous imprisonment for six years. Both these sentences were directed to run concurrently. The appeal filed by the appellant as also his co-accused were dismissed by the Calcutta High Court.
2. The main evidence against the appellant was that of an eye-witness, Haradhan Das, who was the twenty-sixth witness examined by the prosecution. At the hearing of this appeal some minor discrepancies in the evidence of the said eyewitness were sought to be relied upon by learned counsel for the appellant. All the points sought to be made by learned counsel have been considered by the learned Additional Sessions Judge and his findings have been confirmed by the High Court. The minor discrepancies relied upon by learned counsel hardly require noticing because they do not in any manner affect the credibility of the said witness.
3. What was, however, vehemently urged by learned counsel for the appellant was that there was a delay of about 56 days in recording the police statement of the said witness and, therefore, his evidence should be rejected. In support of this submission, a decision of this Court in *State of Orissa v. Brahmananda Nanda* ((1976) 4 SCC 288 : 1976 SCC (Cri) 596) was sought to be relied upon in which the evidence of the sole eyewitness whose police statement was recorded after a day and a half, though accepted by the Additional Sessions Judge, was rejected by the High Court and the accused was acquitted and the State had come to this Court in appeal against the order of acquittal. That was a case which turned upon its own facts. Further, in that case the High Court had given detailed reasons for rejecting the evidence of the particular eyewitness. Here the position is the reverse. In the evidence led by the prosecution a clear, cogent and satisfactory explanation has been given why the statement of Haradhan Das was recorded after a lapse of about 56 days. The learned Additional Sessions Judge has carefully considered this explanation and accepted it and so has the High Court and we see no reason to interfere with this concurrent finding.
4. Lastly, a plea was made before us that the sentence of the appellant should be reduced to the period already undergone. This plea does not deserve any consideration. This was a pre-planned dacoity in which a motor-lorry carrying 180 chests of tea was hijacked at about midnight, taken to another place and the driver of the lorry, and a 'khalashi' and two others who were in the lorry were

murdered in cold blood in a cruel manner and their bodies were buried with a view to cause evidence of the crime committed by the appellant and the other co-accused to disappear.

5. In the result, this appeal fails and is dismissed.

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