

State of Madhya Pradesh

Vs

Jhaddu and Others

Criminal Appeal Nos. 422 to 426 of 1979

(S. R. Pandian, K. Jagannatha Shetty JJ)

12.09.1990

JUDGMENT

K. JAYACHANDRA REDDY, J. –

1. These appeals are filed against the order of acquittal passed by the High Court of Madhya Pradesh setting aside the convictions and sentences passed by the trial Judge against the respondents. All the respondents were tried by the trial court for offences punishable under Section 148 and Section 302 read with Section 149 IPC.
2. The prosecution case is that the accused are all interrelated and they belong to one faction. The other faction was headed by the deceased. There were constant conflicts between the parties. On the night of January 5, 1972 all the accused gathered and conspired to kill the deceased the next day. When the deceased and PW 1 went outside the village all the accused, who were hiding, attacked him. Some of them were armed with ballams and others were armed with axe and lathis. PWs 1 to 5 saw the assault. Seeing the villagers the accused left the scene. PW 1 went to the police station and gave a report. An inquest was held over the dead body. The doctor, who conducted the post-mortem, found some burn injuries and only two incised injuries and two contusions. On internal examination there was fractures of ribs. The burn injuries was stated to be due to pouring of acid. The doctor opined that injury No. 4 was sufficient in the ordinary course of nature to cause death. After investigation the charge-sheet was filed. The learned trial Judge found six of the accused guilty for the offence of number and convicted them under Section 148 and Section 302 read with Section 149 IPC and sentenced them to undergo imprisonment for life. The remaining seven accused were acquitted of all the charges. The convicted accused as well as the State filed appeals against acquittal. The High Court, on the facts and circumstances, held that the six accused are liable for offence under Section 304 Part II read with Section 149 IPC. In arriving at such a conclusion the High Court opined that the assailants did not have the intention to kill but by use of lathis on a vital part like chest resulting in fracture of ribs and laceration of lungs, they could be imputed with the knowledge that the death was the likely result. The High Court dismissed the appeal filed by the State. The High Court having altered the convictions of the other accused of Section 304 Part II read with Section 149 IPC sentenced each of them to undergo 10 years rigorous imprisonment. Now the State has come forward with these appeals against acquittal of those six accused of the murder charge.
3. The Medical evidence shows that there are four injuries apart from the two burn injuries. Two of them are incised wounds and two are contusions. Having regard to the nature of the injuries, the High Court has rightly held that the death was not caused intentionally. Consequently the respondents are rightly convicted under Section 304 Part II read with Section 149 IPC. The sentence

passed also is substantial. Therefore we see no ground to interfere after nearly 11 years. Accordingly, all these appeals are dismissed.

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