

State of M.P

Vs

Amar Singh

Criminal Appeal No. 385 of 1981

(S. R. Pandian, M. M. Punchhi JJ)

14.01.1992

JUDGMENT

1. This appeal by the State is preferred against the order of acquittal passed by the High Court of Madhya Pradesh (Gwalior Bench) acquitting the respondent Amar Singh by setting aside the judgment of the trial Court which convicted the respondent under Section 364, IPC and sentenced him to imprisonment for life and in addition to pay a fine of Rs. 1.000/- and in default of payment of fine to suffer three months, simple imprisonment.
2. The respondent herein along with two others by name, Kalla and Nehru, on 5-1-76 helped the prisoners Jagdish Singh and Hotam Singh in escaping and thereafter all the above said persons including the two prisoners kidnapped the two police constables Ram Chander (PW-4) and Awsan Singh (deceased herein) and that all the accused persons together murdered the police constable Awsan Singh in the jungle and that the police constable Ram Chander (PW 4) escaped and fled away.
3. It is stated that Hotam Singh was shot dead in an encounter subsequent to this occurrence and Kalla and Nehru have absconded and are still absconding. Therefore, the trial went on as against Jagdish Singh who is not before us and Amar Singh, the respondent herein. Though the trial Court for the reasons mentioned in its judgment convicted Jagdish Singh and the respondent Amar Singh, the High Court as aforementioned has acquitted Amar Singh by setting aside the conviction of the respondent and the sentence imposed therefor, but confirmed the conviction of Jagdish Singh.
4. After thoroughly going through the records and hearing the learned counsel appearing for the respective parties, we see absolutely no evidence to convict the respondent in this case. It transpires from the records that though PW-4 escaped and reached Madhoganj police station on 8-11-76 and informed of the incident to the police, his statement was recorded only on 9-1-76. No explanation is given why there was a delay in recording the statement of PW 4 whose sole testimony is relied upon by the trial Court. PW 4 has further admitted that he was asked by the accused including the respondent to walk towards the hill side while the deceased Awsan Singh was asked to go in the opposite direction before Awsan Singh was murdered. Here again the name of the respondent was not implicated as one of the persons who took charge of the deceased in the jungle. As pointed out by the High Court, the evidence adduced by the prosecution is not adequate and acceptable to sustain the conviction as recorded by the trial Court as against the respondent. In fact on a perusal of the judgment, we are in full agreement with the finding of the High Court that the prosecution has not satisfactorily established the charge as against the respondent. Hence we see no reason to interfere with the impugned judgment which does not suffer from any illegality or perversity.

5. The appeal is accordingly dismissed. Appeal dismissed.

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