

Ramesh and others

Vs

State of M.P.

Criminal Appeal No. 488 of 1981

(K. Jayachandra Reddy, N. P. Singh JJ)

06.08.1992

JUDGMENT

1. There are four appellants. They are convicted under Section 302 read with Section 34, IPC and each of them is sentenced to undergo imprisonment for life. The trial Court acquitted nine others and convicted the four appellants and their convictions are confirmed by the High Court in the appeal.
2. The prosecution case is that there were two factions in East Karia Pathar, Jabalpur, one led by the deceased Lalli alias Babulal and the other led by Chintaman father of appellants Gulab Singh and Kalyan Singh. There was an apprehension of the breach of peace and proceedings under Ss. 107 and 117. Cr.PC. were also launched. On 14-11-1973, the deceased Lalli, his nephew and the two others were going to attend their cases in the District Court and when they reached near the house of the deceased they were informed by one boy that the appellants along with other were roaming about armed with deadly weapons. When the deceased came 100 yards from his house these four appellants armed with Farsas and iron rod came out from a Kuliya and it is said that they attacked the deceased. On hearing the cries the wife of the deceased, two daughters and son came forward to intervene and they were also challenged by the appellants. The further case of the prosecution is that nine others came out from the same Kuliya. One of them was armed with Gupti and the others were armed with rod and lathis. All the persons then assaulted the deceased and they left the place. Then the Head Constable (P.W. 14) came there and finding the deceased lying injured, he removed him to the Hospital helped by P.W.5. In the requisition Ex.P.16 he mentioned that these four appellants and others attacked the deceased with Farsas, iron rods and lathies. The inquest was held on the dead body and the post-mortem was conducted. The Doctor examined the deceased and found ten incised wounds and five contusions and he opined that these injuries were sufficient in the ordinary course of the nature to cause death.
3. The Courts below have taken the view' that nine others did not share the common object and hence acquitted them. The Courts below relied on the evidence of the eyewitnesses, P.W. 1 to P.W. 4 and also on the evidence of P.W. 5. The other witnesses as already mentioned are all interested witnesses.
4. The Head Constable mentioned in his report that these four appellants attacked the deceased. He mentioned in his report all the facts which were seen by him and there was no occasion to state in that report what had been told him by the other witnesses at the spot. The medical evidence fully' corroborates the evidence of the eye-witnesses. P.W. 5 an independent witness corroborates the

evidence of the eye-witnesses to the extent that he has seen the first three appellants going away' with blood-stained Farsas and the fourth appellant was armed with an iron rod. The evidence of P.W. 22 is not very helpful because she has not witnessed the occurrence. P.W. 20 is another independent witness. She stated that on hearing the cries she came out and saw first three appellants and the acquitted accused Toni came to her house armed with Farsas and Gupti and were shouting that they have shown red flag to the deceased and that they would also cut Lakhan and Hunuman. In the Court she pointed out the appellants A-2 to A-4 and also wrongly identified appellants No. I (Ramesh) though in her evidence she has stated that Toni accused was the fourth person who attacked. Thus there is a material discrepancies and her identification of appellant No. I becomes doubtful. Having regard to the fact that the other eye-witnesses are also interested witnesses their evidence has to be corroborated in respect of each of the accused. The corroboration rendered by' the evidence of P.W. 20 an independent witness is only with regard to the participation of the appellants Nos. 2,3 and 4. In that view of the matter the benefit of doubt may' go to appellant No. I. In the result the convictions and sentences awarded to appellants Nos. 2. 3 and 4 before this Court are confirmed. The appellant No. I Ramesh Kumar alias Munna before us is acquitted. If he is on bail, his bail bond shall stand cancelled. Rest of the appellants shall serve the remaining period of the sentence.

5. The appeal is disposed of accordingly. Order accordingly.

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