

SUPREME COURT OF INDIA

State of U.P.

Vs.

Battan

(Dr.A.S. Anand, D.P. Wadhwa and Ruma Pal JJ.)

04.05.2000

ORDER

A.S. ANAND, C.J.I.

1. This appeal by special leave has been filed by the State of Uttar Pradesh against refusal by the High Court to grant leave in an appeal against acquittal and, consequently, dismissing the appeal against acquittal.
2. Shorn of details, the prosecution case in brief is that on 17.1.1990 at about 8.00 a.m. when the deceased went towards the riverside for easing himself, the accused party armed with lathis and dandas arrived there and started assaulting him. On learning about the assault on their brother Ramesh, Ramphal and Ram Nath, PWs rushed to the spot and found that the accused were chasing Ramesh (deceased) and as soon as Ramesh had reached the outskirts of the village, he was assaulted by the accused party and he fell down. When his brothers and some other prosecution witnesses tried to intervene, they were also given a beating. On hearing noise, some other persons also were attracted to the spot, seeing whom the accused persons ran away. A first information report was lodged and after investigation, a charge-sheet was submitted against the accused party.
3. After recording the evidence, the learned trial court on 4.4.1991 acquitted the accused persons of the charges. As already noticed leave to file appeal against acquittal was refused by the High Court.
4. We have perused the judgment of the learned Additional Sessions Judge. We find that there is hardly any discussion of evidence of the injured witnesses Ramesh, Ramphal and Ram Nath. They are material witnesses being stamped witnesses. Even according to the statement of the accused recorded under Section 313 Cr.P.C. some members of the accused party including Battan and Bhagira had also received injuries at the hands of the complainant party. The trial court has not discussed this aspect of the case at all. The trial court was required to carefully appraise the entire evidence and then come to a conclusion. The trial court did not do so. It was, therefore, necessary for the High Court to have granted leave and as a first court of appeal, depreciated the entire evidence on the record and returned its findings as regards guilt or otherwise of the accused. It has failed to do so. The High Court has not given any reasons for refusing to grant leave to file appeal against acquittal. We have been deprived of knowing the factors which may have weighed with the High Court for refusing to grant leave against the order of acquittal. The manner in which appeal

against acquittal has been dealt with by the High Court leaves much to be desired. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order. The absence of reasons has rendered the High Court order not sustainable. It appears appropriate to us that the High Court should hear and decide the appeal against acquittal on its merits. We, therefore, allow this appeal and set aside the judgment of the High Court. Granting leave to the State to file an appeal against acquittal, we direct the High Court to hear the appeal against acquittal and decide it on its own merits. The High Court shall do so uninfluenced by any of the observations made by us today.

5. The respondents shall appear before the Registrar (Judicial) of the High Court on 7.7.2000, who shall then release the respondents on bail, on their furnishing bail bonds to his satisfaction.