

SUPREME COURT OF INDIA

Moti Lal

Vs.

State of M.P.

(K.T. Thomas and S.N. Variava JJ.)

17.08.2001

JUDGMENT

S.N. Variava, J.

1. This appeal is against the Judgment dated 19th February, 1998.
2. Briefly stated the facts are as follows:
3. On 2nd June, 1986 one Om Prakash along with his friend Munna was taking a stroll. On the way back to their house, when they were near Udayan Gas Co., five persons, viz., Bhagwan Das, Nathu Lal, Moti Lal, Sapan and Tapan, surrounded them. Thereafter, Nathu Lal dealt a blow by means of a 'Gupti' which landed on the back of Om Prakash. On receiving the blow Om Prakash fell on the ground. Bhagwan Das then gave a blow by means of a 'Farsa' on the neck of Om Prakash resulting in his instantaneous death.
4. In the meantime, Munna had tried to run away but was prevented from doing so by Sapan and Tapan. Then Bhagwan Das hit Munna on the head with the 'Farsa' and a 'Lathi' blow was given to Munna by Moti Lal. This incident is alleged to have been witnessed by two brothers of Om Prakash who were standing nearby.
5. All the five persons were charge-sheeted and tried for offences punishable under Sections 302/149 and under Sections 307/149 and 148 of the Indian Penal Code. The Trial Court convicted all the five accused to life imprisonment under Sections 302/149 and R.I. for 10 years under Sections 307/149 I.P.C. They were also sentenced to R.I. for six months under Section 148 I.P.C.
6. All the five persons filed Appeals before the High Court. The High Court, by the impugned Judgment, acquitted Sapan and Tapan. The High Court acquitted Bhagwan Das, Nathu Lal and Moti Lal of the offence under Section 148 I.P.C and converted their convictions under Section 302/149 and 307/148 I.P.C. to sentences under Section 302 read with 34 and 307 read with 34 I.P.C. The High Court maintained the sentence of life imprisonment and 10 years respectively.

7. We are told that a S.L.P. filed by Bhagwan Das has been dismissed by this Court. It appears that Nathu Lal has not filed any S.L.P. This Appeal is by Moti Lal.

8. We have gone through the evidence and the material which had been brought on record. It is clear that no role is attributed to Moti Lal in the murder of Om Prakash. The only role attributed to Moti Lal is that he is supposed to have given a 'Lathi' blow to Munna after Bhagwan Das had hit Munna with a 'Farsa'. Undoubtedly the 'Farsa' blow resulted in Munna receiving an incised injury. The 'Lathi' blow was given after the 'Farsa' blow. Munna has not expired. For this Moti Lal cannot be convicted under Section 302 I.P.C. His conviction under Section 307 I.P.C. must however be confirmed. In our view, on the facts of this case, it will be sufficient if the sentence of Rigorous Imprisonment is reduced to that already undergone by him till date.

9. With these directions the Appeals stands disposed of Moti Lal is to be released forthwith, unless he is required in some other offence.