

SUPREME COURT OF INDIA

State of Rajasthan

Vs.

Ashraf

(U. C. Banerjee and Shivaraj V. Patil JJ.)

24.10.2002

ORDER

1. The State of Rajasthan is in appeal against the order of acquittal of the charge of Section 302/34 I.P.C. by the High Court. Learned counsel appearing in support of the appeal has been rather emphatic in his submissions that there is no proper application of mind in the matter of dealing with the writing of the judgment presently impugned before this Court and that too reversing the order of conviction as passed by the learned sessions judge. Be it noted that the additional sessions judge, Deeg in sessions case No. 16/80 convicted the respondents - accused persons under Section 302 I.P.C. read with Section 34 I.P.C. and sentenced them to undergo rigorous imprisonment for life together with an order of fine. The High Court very surprisingly however, recorded as follows:

"We need not state the facts in detail as we are convinced that the accused appellants deserve to be acquitted on the simple ground of right of private defence. We, therefore, narrate only necessary facts."

2. Admittedly, the High Court, was acting as the first Appellate Court and as such it has a bounden duty and obligation to deal with the matter extensively, including an analysis of the evidence and appreciation thereof. "The simple ground of private defence" apparently prompted the Division Bench, of the High Court to pass the order of acquittal. The injuries suffered by the accused persons, the details of which have been given in the judgment more prominently rather than the injuries suffered by the deceased depict the nature of such injuries. We feel it expedient to record that the methodology adopted by the High Court in disposing of the matter in the manner as is presently before us does not appear to be satisfactory to subserve the ends of justice. The matter thus needs to be dealt with afresh upon proper reasonings being made available in the judgment itself.

3. On the wake of the aforesaid we do feel it expedient to record our concurrence with the submissions made in support of the appeal that the impugned judgment cannot be sustained in any way whatsoever. In that view of the matter, this appeal succeeds, the judgment stands set aside and the matter is remitted back to the High Court for being dealt with in the manner noticed above.

4. It appears that the matter pertains to the year 1979 - a long time thus has elapsed and it is on this ground that we feel it compelled to request the High Court to deal with the matter with utmost expedition and preferably within a period of 12 weeks from the date of communication of this order. Records, if made available to this Court, will be sent back to the High Court immediately and the registry is directed to send a copy of this order to the Registrar General of the High Court of Rajasthan.

5. Bailable warrants issued by this Court stand discharged.