

SUPREME COURT OF INDIA

State of Haryana

Vs.

Raj Singh

CrI.A.No.1047 of 1997

(Doraiswamy Raju and Arijit Pasayat JJ.)

29.01.2004

JUDGMENT

Doraiswamy Raju, J.

1. The above appeal has been filed by the State of Haryana challenging the judgment of the High Court of Punjab and Haryana in Criminal Appeal No.137-DB of 1994 dated 13.03.1997 whereunder, while reversing the judgment of the learned Sessions Judge, convicting the accused 1 to 3 for offences under Section 302 read with Section 34 IPC, a verdict of acquittal of all the three, arrayed now as respondents before us was returned. The prosecution case before the learned Trial Judge was that on 13.05.1992 at 7.45 AM when the father of PWs. 2 and 3 had gone to the fields from the house on a bicycle and was returning back from the fields, through the lane in front of the house of one Ram Singh, the three accused armed with lathis attacked the deceased Zile Singh and inflicted lathi blows on the right side of his neck and even after the deceased fell down on the ground, further lathi blows were inflicted on the neck, chest and left elbow, ultimately resulting in the death of Zile Singh, the victim. The two sons of the deceased claimed to have immediately reached on the spot and on seeing them, the accused were said to have ran away. For the motive part of the occurrence, the prosecution has relied upon a quarrel which was said to have taken place between Jagmal Singh and Inder three years prior to the said occurrence in which the son of the deceased PW-2 (Ranbir Singh) was injured and which resulted ultimately in a Panchayat and compromise. Despite all that, the accused were said to have nursed a grudge in their mind to take revenge.

2. The prosecution has examined as many as six witnesses including PW-2, the first informant who claimed himself to be an eye-witness as well, to the occurrence and PW-3, his brother, claimed to be another eye-witness. The other witnesses were formal witnesses who participated in the various stages of process of investigation, and on completion of which the charge came to be laid against all the three accused under Section 302 read with Section 34 IPC. The learned Trial Judge, on considering the materials on record felt convinced of the sufficiency of the proof tendered in support of the case of the prosecution and while convicting the Accused 1 to 3 for the charge framed against them under Section 302 read

with Section 34 IPC, sentenced them to life imprisonment, in addition to the payment of a fine of Rs.2, 000/- each imposed, with a default stipulation therefor.

3. Aggrieved, the accused pursued the matter on appeal before the High Court and as noticed above, the Division Bench in the High Court, on an independent consideration of the materials on record based on re-appreciation of the evidence in the manner, it appealed to the High Court, found the claim as to the very presence of PWs. 2 and 3 at the place and time of occurrence to be not believable and ultimately acquitted the accused, necessitating the above appeal, at the instance of the State.

4. Heard the learned counsel appearing on either side.

5. The learned counsel appearing for the State, while strenuously challenging the conclusions of the High Court invited our attention to the manner of consideration undertaken by the High Court by reading out relevant portions of the judgment, to highlight certain infirmities in them and the grievance of the State as to the findings arrived at by the Division Bench. Though certain observations made by the High Court relating to the reliability of the evidence on the ground of relationship of PWs 2 and 3 and the other observations pertaining to the medical evidence as to the semi-digested food in the stomach of the deceased, are not in tune with settled legal principles and could not have approval in our hands, but yet having regard to the fact that the judgment rendered by the High Court is one of total reversal of the conviction into one of complete acquittal, we had scanned through the evidence on record to find out whether the High Court was justified in acquitting the respondents. In the process, we find that the nature of evidence tendered by the prosecution could not be considered to sufficiently bring home the guilt of the accused beyond reasonable doubt. We are of the view that the ultimate conclusion arrived at that PWs 2 and 3 could not have been the actual eye-witnesses for the occurrence appears to be well justified on the very substance as well as contents of the evidence itself and the same does not appear to be a perverse finding at any rate to call for our interference. On that view of the matter, we find that the conclusion arrived at by the High Court ultimately to acquit the accused can also taken to be another reasonably possible view, as well, de-hors the reasoning of the High Court itself.

6. In view of the above, we are not persuaded to interfere with the ultimate conclusion of the High Court to acquit the accused-respondents. The appeal, therefore, fails and shall stand dismissed.