

SUPREME COURT OF INDIA

State of M.P.

Vs.

Chandu

CrI.A.Nos.207-209 of 2005

(Harjit Singh Bedi and Chandramauli Kr. Prasad JJ.)

02.12.2010

JUDGMENT

Harjit Singh Bedi, J.

1. This judgment will dispose of three sets of Criminal Appeal Nos. 207-209/2005, 763-765/2005, and 766- 769/2005 as they arise out of the judgment of the Madhya Pradesh High Court dated 18th September 2003. In the light of the fact that we intend to remand this matter to the High Court for re-decision, only the bare facts are being given. The incident happened at about midnight of the night intervening the 29th and 30th June 1995. In all three matters, the allegations are that the appellants and some others all armed with firearms had first entered the house of Mardan Singh PW and shot dead Devendrasingh, Shankarsingh and Komalsingh; they had thereafter entered the house of Ashoksingh and shot and killed him and his wife Purnawati and thereafter entered the house of Betal Singh and shot him dead as well. The trial court on a consideration of the evidence in the case awarded a death sentence to Chandu and a sentence of life imprisonment to Balveer and Bheekam for the first incident. For the second incident, Balveer was sentenced to death, and for the third Chandu was sentenced to death and Bheekam to life imprisonment. The trial court observed that the eye witness account inspired confidence and though there was one eye witness for each of the three incidents, the accused had been identified by the witnesses as they were all belonged to the same village and were neighbours. The trial court also held that there was evidence to show the presence of light bulbs in each of the houses by which the accused had been identified. The matters were then taken to the High Court in murder references and in appeal. The High Court has declined the murder references and allowed the appeal acquitting the accused. The High Court noticed several arguments raised before it but by a cryptic judgment disposed of the matter in one paragraph observing that as there appeared to be no light in any of the three houses where the murders had been committed, it was apparent that the eye witnesses could not have identified the accused. The present set of appeals has been filed by the State of Madhya Pradesh impugning the judgment of the High Court.

2. Several arguments were raised by Mr. Siddharth Dave, the learned counsel for the State of Madhya Pradesh. He has primarily pointed out that the High Court had misread the evidence with regard to the presence of the electric lights/connections at the three places where the murders had been committed and that the Court had ignored vital aspects in the evidence while rendering its judgment with regard to six ghastly murders.

3. Mr. T.N.Singh and Mr. S.K.Dubey, the learned senior counsel for the respondents, have however, pointed out that it was not open to this Court, in normal circumstances, to interfere in an appeal against an acquittal recorded by the High Court as the High Court was the final court of fact and that if the view taken by the High Court was possible on the evidence and not perverse, interference should not be made. They have also referred us to several parts of the evidence to argue that the evidence in the matter was discrepant not only with regard to the provision of an electric connection or the presence of an electric bulb but even on other vital aspects including the fact that FIR had been recorded after a long delay.

4. As already noted above, we are not inclined to examine the evidence as we intend to remand the matter for a fresh hearing. We are of the opinion that the High Court's order was cryptic and did not minutely examine the evidence though it was the final court of fact and more particularly as it involved six murders. We make it clear that we are not expressing any opinion on the merits of the case but we do feel that a more elaborate and comprehensive discussion on the evidence was required to be made. We, thus, feel it appropriate to remand the matter to the High Court so that the remedy which may subsequently be available to either of the parties before the Supreme Court, is not taken away. We, accordingly, allow the appeals, set aside the judgment of the High Court and remand the case to the High Court for fresh decision to be rendered after a re-appraisal of the evidence. In the light of the fact that the respondents herein have been acquitted by the High Court, we deem it proper notwithstanding that these appeals are being allowed that they shall continue to remain on bail till the matter is finally disposed off by the High Court. We, once again, reiterate that any observation made herein should not be read as a reflection of our opinion on the merits of the case. The parties are directed to appear before the Registrar of the High Court on the 10th January 2011, for the purpose of fixing a date for final hearing. We also request to the High Court to dispose of the references and the appeals as expeditiously as possible.