

SUPREME COURT OF INDIA

Suresh Singh

Vs.

State of Madhya Pradesh

CrI.A.No.1586 of 2009

(Abhay Manohar Sapre and S.Abdul Nazeer,JJ.,)

11.05.2018

JUDGMENT

Abhay Manohar Sapre, J.

1. Leave granted in S.L.P.(CrI.)No.1342 of 2010.
2. These appeals are filed by the accused persons against the final judgment and order dated 24.04.2007 passed by the High Court of Madhya Pradesh Bench at Gwalior in Criminal Appeal No. 109 of 1998 whereby the High Court disposed of the appeal filed by the appellants herein and modified the order dated 20.02.1998 passed by the Additional Sessions Judge, Bhind in S.T. No.78 of 1993 by reducing the sentence of the appellants passed under Section 307/149 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") from seven years to five years and affirmed the sentences and fine awarded under other sections.
3. In short, the case of the prosecution is that on 06.12.1992, when Keshav Singh-Complainant(PW- 10) was taking the water to his field from the tube well of Jairam, the appellants asked him that why he is taking water through their 'Medh'. Keshav Singh replied that he will not take the water in future. Not satisfied with the reply of Keshav Singh, the appellants came along with Rambaran armed with Axe and Ummed Singh armed with Bhala and Ramhet armed with Lathi and started abusing him. In the meantime, Rambaran went ahead and inflicted an Axe blow on the head of Keshav Singh whereas Ramhet inflicted Lathi blow on the wrist of his right hand and also on the right peddle of leg. Thereafter, the brothers of Keshav Singh, namely, Ujjagar Singh and Rai Singh came there, who were also watering on their fields which were nearer to the place of occurrence. Inder Singh was also taking water to his field, therefore, Rambaran (deceased) inflicted him a blow with Axe on his head and Ramhet also gave him a Lathi blow on his head. Thereafter Sobran armed with Lathi and Suresh armed with Bhala came there. Suresh inflicted a blow with Bhala and Sobran inflicted a lathi blow on the shoulder of Keshav Singh. Suresh had given a Bhala blow on the back of Shyam Singh. Rambaran had given an axe blow on the head of Shyam Singh. Kali Charan and Mahesh came there for sorting out the matter. There was a free fight between the two groups.

4. On the same day, i.e., 06.12.1992, Keshav Singh lodged a report at the Police Station, Umri, Dist. Bhind against the appellants herein which was registered as FIR No.131/92. The injured Keshav Singh, Ujjagar Singh, Shyam Singh, Rai Singh and Inder Singh were sent for the treatment to the Government Hospital, Umri. Later on Rambaran succumbed to his injuries.
5. For the same incident, the appellants herein also lodged a report at the Police Station, Umri, Dist., Bhind, which was registered as FIR No.132/92 dated 06.12.1992.
6. The police investigated both the FIRs and filed cross case against the appellants under Sections 148, 307 and 323/149 IPC whereas against the complainant's side FIR (No.131/1992) under Sections 148, 302, 149, 325/149, 324, 323/149 IPC.
7. The Additional Sessions judge registered S.T. No.78/1993 against the appellants herein and S.T. No.79 of 1993 against Keshav Singh and others under Sections 148, 302/149, 325/149, 324 and 323/149 IPC. Both the trials were tried together and by order dated 20.02.1998 in S.T. No.78/1993, all the appellants were convicted under Section 148 IPC and sentenced to undergo rigorous imprisonment for two years, Suresh Singh and Ummed Singh were convicted under Section 307 IPC and sentenced to undergo rigorous imprisonment for seven years and a fine of Rs.2000/- each, Ramhet and Sobran were convicted under Section 307/149 IPC and sentenced to undergo rigorous imprisonment for seven years and a fine of Rs.2000/- each, all the appellants were convicted under Section 323 IPC and sentenced to undergo rigorous imprisonment for six months and further convicted under Section 323/149 IPC and sentenced to undergo rigorous imprisonment for six months. All the sentenced were directed to run concurrently.
8. The Additional Sessions Judge convicted the other party in S.T. No.79/1993, namely, Rai Singh, Keshav Singh, Ujjagar Singh, Inder Singh, Gyan Singh and Shyam Singh for the offences punishable under Sections 148, 302/149, 323/149, 325 and 323 of IPC and sentenced them to undergo rigorous imprisonment for two years under Section 148 IPC, life imprisonment under Section 302/149 IPC, rigorous imprisonment for one year under Section 323/149 IPC, rigorous imprisonment for two years under Section 325 IPC and rigorous imprisonment for six months and a fine of Rs.2000/- each under Section 323 IPC.
9. Being aggrieved by the order of conviction and sentence passed by the Additional Sessions Judge, the appellants filed appeal being Criminal Appeal No. 109 of 1998 whereas the opposite party filed Criminal Appeal No.149 of 1998 before the High Court.
10. By impugned judgment dated 24.04.2008 in Criminal Appeal No.109/1998, the High Court disposed of the appeal and modified the order of the Additional Sessions Judge by reducing the sentence of the appellants herein under Section 307/149 IPC from seven years to five years and affirmed other sentences and fine.

11. The High Court by judgment dated 03.04.1998 in Criminal Appeal (No.149/1998) filed by the Complainant's side partly allowed the appeal and released the appellants therein on already undergone sentence period.

12. Against the said judgment, the appellants herein filed special leave petition before this Court. This Court by order dated 14.05.2010 dismissed the special leave petition.

13. Hence, aggrieved by impugned judgment dated 24.04.2007, the appellants have preferred these appeals by way of special leave before this Court.

14. It is a settled principle of law that when the Courts below have recorded concurrent findings against the accused person which are based on due appreciation of evidence, this Court under Article 136 of the Constitution of India would be slow to interfere in such concurrent findings and would not appreciate the evidence de novo unless it is prima facie shown that both the Courts below did not either consider the relevant piece of evidence or there exists any perversity or/and absurdity in the findings recorded by both the Courts below etc.

15. We, however, made endeavour to peruse the evidence with a view to find out as to whether the concurrent findings of both the Courts below have any kind of infirmity or/and whether the concurrent findings are capable of being legally and factually sustainable or need to be reversed. Having gone through the evidence, we are of the view that the findings are legally and factually sustainable in law.

16. On perusal of the evidence adduced by the parties, there is no reason to disbelieve the version of the injured eyewitnesses inasmuch as we are not able to notice any kind of perversity or contradiction or inconsistency in their version.

17. The High Court, however, while rightly affirming the conviction reduced the sentence from seven years to five years, and, in our opinion, this relief of reduction of sentence from seven years to five years for an offence punishable under Section 307 IPC to the appellants is well justified having regard to the facts situation arising in the case. Therefore, we do not find any ground to further reduce the sentence. It is more so when we find that the appellants had used deadly weapons for inflicting injuries on the members of the complainant's party as detailed in the facts set out above.

18. We are not impressed by the submission of the learned counsel for the appellants when it was urged that the appellants had inflicted injuries on the members of the complainant's party in their right of private defense. First, this submission did not find favour to the two courts below and, in our view, rightly; Second, it being a question of fact, we are not inclined to again appreciate the evidence so as to reverse the concurrent findings of fact; and lastly, this does not appear to be a case where the appellants can be absolved fully from the commission of the offence in question in their right of private defense against the members of the complainant's party.

19. In our view, there is an evidence adduced by the prosecution to prove that the appellants were armed with the deadly weapons and were the aggressors in hitting the abovenamed persons with the weapons due to which injured persons suffered several injuries.

20. In the light of the foregoing discussion, we are of the considered view that neither any case of acquittal and nor any case of further reduction of jail sentence than what has been awarded by the High Court is made out in favour of any of the appellants in both the appeals.

21. In view of the foregoing discussion, the appeals fail and are accordingly dismissed being devoid of any merit.