



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Criminal Appeal No. 333/2002

State Of Rajasthan

----Appellant

Versus

1. Girraj S/o Revdya
2. Tiyaaram S/o Girraj
3. Bharatlal S/o Shivilal
4. Mansingh S/o Girraj
5. Jeetram S/o Girraj
6. Prabhu S/o Shivilal

All are R/o Koleta PS Bamanwas District Sawai Madhopur

----Respondents

For Appellant(s)	:	Mr. Amit Kumar Punia, PP
For Respondent(s)	:	Mr. Ran Singh

**HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL
HON'BLE MR. JUSTICE SAMEER JAIN**

Order

25/02/2026

Per Hon'ble Mahendar Kumar Goyal, J.

As per the status report dated 16.02.2026 furnished by the learned Public Prosecutor accompanied with a certificate even dated issued by the Administrator, Gram Panchayat Dungrawara, submitted in the connected appeal no.702/2001, the respondent no.1-Girraj son of Revdya has expired.

In view thereof, the appeal stands abated qua him.

This criminal appeal is preferred under Section 378 CrPC assailing the legality and validity of the judgement dated 14.09.2001 passed by the learned Additional Sessions Judge (Fast Track) Gangapur City (for brevity, 'learned trial Court') in Sessions



Case No.18/2001 whereby, the accused-respondents no.2 to 6 have been acquitted of the charges framed under Sections 148, 302, 302/149, 307, 307/149, 323 and 449 IPC.

The relevant facts in brief are that based on the parcha bayan of Janta Raj (PW2) dated 22.09.1996, an FIR No.141/1996 dated 23.09.1996 came to be registered at Police Station Bamanwas, District Sawai Madhopur for the offence under Sections 147, 448 and 323 IPC. After investigation, the accused-respondents, including the respondent no.1, were charge-sheeted under Sections 147, 148, 149, 323, 448, 307 and 302 IPC. Charges under Sections 148, 302, 302/149, 307, 307/149, 323 and 449 IPC were framed against them. However, after trial, they have been acquitted of the same by the learned trial Court by judgement impugned dated 14.09.2001.

Assailing the impugned judgement, the learned Public Prosecutor contended that the learned trial Court erred in acquitting the respondents of the charges framed against them without appreciating that the prosecution was able to establish, beyond reasonable doubt, that they, in furtherance of common object of the unlawful assembly whereof, they were members, committed murder of Govinda who, as per the postmortem report (Ex. P29), had suffered as many as eleven injuries on his body. He further submitted that the learned trial Court erred in failing to appreciate the testimony of Shri Janta Raj (PW2) in its true perspective who, himself was an injured eye witness. Learned Public Prosecutor, inviting attention of this Court towards the testimony of Smt. Faudi (PW6)-wife of the deceased, would submit that she has claimed to have seen the respondents



inflicting injuries on the body of the deceased but, the learned trial Court rejected her testimony without assigning any reason which has vitiated its finding. He, therefore, prayed that the appeal be allowed, the judgment impugned dated 14.09.2001 be quashed and set aside and the respondents be convicted of the charges framed against them.

Per contra, learned counsel for the respondents no.2 to 6, opposing the submissions and supporting the findings recorded by the learned trial Court, prayed for dismissal of the appeal.

Heard. Considered.

A perusal of the judgement impugned reflects that after appreciating the evidence on record including the site plan of the scene of crime (Ex.P8), the learned trial Court held that the incident had occurred at the well of the deceased-respondent no.1 Girraj and the complainant-party was aggressor. It was further held that there was no premeditation on the part of the respondents and after attack upon him, Girraj, bonafidely exceeding his right of private defence, inflicted a blow on the body of Govinda with lathi which proved to be fatal and in view thereof, instead of recording his conviction under Section 302 IPC whereunder, charge was framed against him, he was convicted of the charge under Section 304 Part-II IPC and was sentenced accordingly. It may also be relevant to mention here that the medico legal report (Ex.D8) of the deceased-respondent no.1 Girraj reflects as many as five injuries on his body including two lacerated muscle deep wounds on frontal parietal and left parietal part of the head respectively. Although, as per the testimony of Dr. Satya Narain Sharma (PW18), who had prepared Ex.D8, he



had opined x-ray examination of injuries no.1 and 3 but, no such x-ray report is part of the record.

Further, although, the autopsy report (Ex.P29) reflects as many as 11 injuries on the body of deceased but, most of the injuries were in the nature of abrasion and scratches superficial in nature, which as per the testimony of Dr. H.L. Bairwa (PW15) who conducted the postmortem, could be on account of dragging or shifting the body from one place to another.

It was further held by the learned trial Court that it was the prosecution case that upon scolding by the deceased, Girraj had gone to his home and brought other respondents armed with lathi and gandasi (a sharp curved instrument) and inflicted multiple blows on the body of the deceased as also other members of the complainant party but, as per the postmortem report (Ex.P29), no sharp edged injury was found on the body of the deceased. Moreover, the so called eye witnesses namely Janta Raj (PW2), Naval (PW3), Nathu Singh (PW5) and Smt. Faudi (PW6), in their examination-in-chief, have not levelled any allegation against any of the respondents of inflicting any injury on the body of the deceased with gandasi and when confronted with their police statement during the cross-examination, they stated that it was wrongly mentioned therein that Man Singh inflicted a gandasi blow on the body of the deceased. It is also reflected from the prosecution evidence that contradicting and improving their version from the FIR as also from their police statement, these witnesses have alleged that the deceased was beaten only with lathi so as to justify the injuries mentioned in the postmortem report of the body of the deceased (Ex.P29). Furthermore, there



has been no recovery of any weapon of offence from any of the respondents except recovery of a lathi on the disclosure statement of deceased-Girraj. The aforesaid evidence raises a serious doubt as to veracity of the prosecution case.

We notice that after appreciating the testimony of Shri Janta Raj (PW2), Smt. Faudi (PW6) and other prosecution witnesses, it was held by the learned trial Court that the present respondents were not present at the scene of crime. It was also held by the learned trial Court that had they been present, they definitely would have received injuries in view of the fact that later on, it turned out to be a case of free fight in which person from both sides have received injuries.

In the conspectus of aforesaid analysis, we are of the considered view that the learned trial Court committed no error in acquitting the respondents of the charges framed against them.

We have analysed the findings recorded by the learned trial Court in the light of evidence available on record and do not find the same to be perverse or to be suffering from any such illegality or infirmity so as to warrant interference by this Court under its limited appellate jurisdiction against the findings of acquittal.

Resultantly, the appeal is dismissed.

Pending application(s), if any, also stands disposed of accordingly.

(SAMEER JAIN),J

(MAHENDAR KUMAR GOYAL),J