

Cr1.A.No. 915 OF 1998

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.915 OF 1998

State of RajasthanAppellant

Versus

Sita RamRespondent

O R D E R

The prosecution case as projected before the trial court is that the respondent herein and the deceased were labourers involved in loading sand into a tractor. On 27th of September, 1983 at about 11 a.m. the prosecution alleges that there was some altercation between the two consequent to which the respondent herein hit the deceased on the head with a shovel. The deceased who suffered the injury was taken to the hospital and died after 20 days on 17.10.1983. After investigation a chargesheet under Section 302 IPC was filed by the Investigating Agency before the learned Additional Sessions Judge, Nagaur, Rajasthan. In support of its case the prosecution examined several witnesses who according to it witnessed the incident in question. The medical evidence also showed that the deceased had died because of the injuries suffered on his head.

The defence of the respondent was that when both of them were working and while using the shovel to load sand into the tractor accidentally the deceased came between the shovel and tractor because of which he suffered the injuries and the act of causing injuries was not deliberate. The trial court not accepting the defence convicted the respondent for the offence punishable under Section 302 IPC and imposed sentence for life imprisonment. In appeal filed against the said conviction and sentence by the respondent the High Court after going through the material on record came to the conclusion that the prosecution case in regard to the incident was not consistent and admittedly there being no enmity to attack the deceased it accepted the defence case that injury in question must have been caused due to accident, was more probable. In this process it relied upon the evidence of PW.7 who stated that there was no enmity between the respondent and the deceased, and the incident had taken place while loading the sand into tractor when the deceased suffered injuries hence it came to the conclusion that the respondent is guilty of an offence punishable under Section 304A IPC and imposed sentence for a period already undergone.

The State of Rajasthan is in appeal before us. Ms. Madhurima Tatia, learned counsel for the State seriously contended that from the material on record that it is evident that the respondent had at least committed a crime under Section 304 Part II. She pointed out from the evidence of other witnesses that there was some exchange of words between the respondent and the deceased before the respondent-accused assaulted.

We have heard her arguments and gone through the evidence and material on record and as observed by the High Court we notice that there is discrepancy in the evidence of prosecution witnesses themselves as to the genesis of the fight as also in manner in which the injury caused we think it is probable as contended by the defence that the injury might have been caused by an accident. We also notice that all the injuries suffered by the deceased have not been explained by the prosecution. In such circumstances we agree with the High Court that it is not safe to rely on the evidence of the eye-witnesses.

For the reasons stated above, we find no merit in this appeal. The appeal fails and the same is dismissed.

.....J.
(N. SANTOSH HEGDE)

.....J.
(B.P. SINGH)

NEW DELHI,
APRIL 20, 2004.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No.915 of 1998

STATE OF RAJASTHAN Appellant (s)

VERSUS

SITA RAM Respondent (s)

(with appln.(s) for exemption from filing OT)

Date : 20/04/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE B.P. SINGHFor Appellant (s)Ms. Madhurima Tatia, Adv.
Mr. Aruneshwar Gupta, AAG, Raj.
Mr. Jog Singh, Adv.
Mr. Amarjit Singh Bedi, Adv.
Mr. M.D. Garg, Adv.For Respondent (s)Mr. Doongar Singh, Adv.
Mr. V.J. Francis, Adv.
Mr. Jenis, Adv.UPON hearing counsel the Court made the following
O R D E RMs. Madhurima Tatia, learned counsel started her arguments at 2.50 p.m. and concluded at 3.25 p.m.
The appeal fails and the same is dismissed in terms of the signed order.(PAWAN KUMAR) (PREM PRAKASH)
COURT MASTER COURT MASTER
(signed order is placed on the file)