

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(s). 412 OF 2005

CHIRANJI LAL

Appellant (s)

VERSUS

STATE OF UTTARANCHAL

Respondent(s)

(With office report)

WITH APPEAL(CRL) NO. 582 of 2005

(With office report)

Date: 15/12/2010 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY
 HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Appellant(s)

Mr. Avtar Singh Rawat, Adv.
 Mr. K.S. Rana, Adv.

Mr. Anil Nag

For Respondent(s)

Mr. S.S. Shamshery, Adv.
 Mr. Jatinder Kumar Bhatia, Adv.

UPON hearing counsel the Court made the following
 O R D E R

CRIMINAL APPEAL NO. 412 OF 2005

The appellant Chiranji Lal is acquitted of the charge under Section 302 IPC. The conviction and sentence of the appellant is accordingly set aside. The bail bonds shall be discharged.

CRIMINAL APPEAL NO. 582 of 2005

It is stated by the learned Counsel for the appellant that the appellant Umanand died during the pendency of this appeal on 13th October, 2005. The appeal shall stand dismissed as abated.

(DEEPAK MANSUKHANI)
 Court Master

(RENUKA SADANA)
 Court Master

(The signed order is placed on the file)
 IN THE SUPREME COURT OF INDIA
 CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 412 OF 2005

CHIRANJI LAL

.....Appellant

Versus

STATE OF UTTARANCHAL

....Respondent

WITH
CRIMINAL APPEAL NO. 582 OF 2005

O R D E R

CRIMINAL APPEAL NO. 412 OF 2005

This appeal is directed against the Judgment of the Uttaranchal High Court made in CrI. Appeal No. 448/2001 wherein the High Court upheld the conviction and sentence of the appellant awarded by the Trial Court for the offence punishable under Section 302 IPC.

That altogether 5 persons including the appellant herein were charged for the offence punishable under Section 302 IPC for having caused the murder of Basanti Lal and Govind Ram, sons of Bacchi Ram. The Trial Court upon appreciation of the evidence convicted the appellant and Uma Nand (since deceased) and acquitted the rest of the accused. On appeal, the High Court maintained the conviction and sentence of the appellant as well as that of Umanand(since deceased).

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Briefly stated, the prosecution case is that on 16.10.1982 at about 5.p.m. At Dhaj Nam Tok in village Jamari, the deceased Basanti Lal and Govind Ram sons of Bachhi Ram were attending to agricultural operations in their fields. The appellant Chiranji Lal and his brother Umanand(since deceased) were also working on their fields. Both the parties according to the prosecution were at loggerheads. The appellant Chiranji Lal and Umanand(since deceased) are sons of Bachhi Ram who were born through their mother Smt. Dikka Devi. The deceased Basanti Lal and Govind Ram were also sons of Bachhi Ram born through another wife. On the date of occurrence, daughter of one of the accused was grazing the goats. The goats entered into the field of Govind Ram to which an objection was raised.

Thereafter, the goats strayed into the fields of deceased Basanti Lal. When Govind Ram intervened, then Umanand(since deceased) assaulted Govind Ram with Nisura(an appliance used for ploughing the fields). Raising an alarm by PW-4 Smt. Maheswari Devi, wife of Jagdish Prasad, another brother of deceased Basanti Lal and Govind Ram, other family members came to the spot but they found that both the injured persons were dead.

This occurrence was communicated to PW 1 Narayan Singh by wife of deceased Govind Ram. PW1 prepared a written report based on what was told to him by the wife of deceased Govind Ram and got the report delivered to Patwari on 17.10.1982 who, based on the said report, issued the FIR. The Investigating Officer, i.e. Patwari inspected the place of occurrence on 17.10.1982 and found the dead bodies at the spot. The required procedure was

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followed. Bodies were sent to post-mortem. Dr. V.K. Saxena PW-3 conducted the post-mortem of the body of deceased Govind Ram on 20.10.1982, that is to say, after 4 days of the incident and found the following injuries:-

1. Lacerated wound right side of scalp 10 cms, above right pinna measuring 5 cms. X 2.5 cms X deep on cutting underneath haematoma present.
2. Multiple lacerated wounds from right side scalp just below injury no. 1 and above right pinna in an area of 10 cms X 6 cms X bone deep underneath. Haematoma present.
3. Lacerated wounds left side of scalp 9 cms. Above left pinna measuring 2.5 cms X 2 cms. X bone deep underneath. Haematoma present.
4. Communicated fracture involving right side of temporal, parietal frontal bones, haematoma around fracture area present. Brain under coming out from fractured area.

He conducted another post-mortem at 11.45 a.m. on the same day on the body of deceased Basanti Lal and found following

ane-mortem injuries:-

1. Multiple lacerated wounds present over right side of scalp
4 cms. above right pinna in an area of 12 cms. and 8 cms. X
bone deep on cutting under neath. Haematoma present.
2. Communicated fracture over right side, involving frontal
tempor and parietal bones present. Brain mater coming out
of from fractured areas. Haematoma around fractured area
present.

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On examination, the Medical Officer found the brain matter protruding out from fractured area. He opined that the death was caused due to head injuries and also opined that the death was about three to four days prior to the date of post-mortem examination. In his opinion, the death may have occurred on account of receiving injuries from throw of heavy stones. The prosecution, in order to establish his case altogether examined 12 witnesses. The crucial witness examined on behalf of the prosecution is Pw-4 Maheshwari Devi who is none other than the wife of Jagdish Prasad. The said Jagdish Prasad is another son of Bachhi Ram.

The entire prosecution case depends upon the evidence of PW-4 Maheshwari Devi who is stated to be one of the eye-witnesses along with PW 5 . It is in her evidence that the whole origin of the dispute is traceable to straying of goats into the fields of deceased Govind Ram and Basanti Lal. The deceased Govind Ram and Basanti Lal were dragging away the goats which were straying into their fields and it is, at that time, according to PW 4 Maheshwari Devi accused Umanand caught hold of Basanti Lal and hit him on his head with a stone. In the meanwhile, deceased Govind Ram too came to rescue Basanti Lal and Umanand(since deceased) hit Govind Ram also on his head with Nisura (Exh. 1). Then, she raised alarm to save her brother-in-laws, that is to say, Basanti Lal and Govind Ram lying in the land of Umanand. At that time, her elder sisters-in-law Kiamala Devi, Pavitra Devi and Satish and Prem Ballabh also came to the

spot. Then she went near Basanti Lal and Govind Ram whose

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bodies were lying in the fields of Umanand and turned them right and put water in their mouth and found both of them dead. Of course, it is also in her evidence that accused Umanand and appellant Chiranji Lal went to their cowshed proclaiming that they have done the act. It is also in her evidence that the appellant Chiranji Lal was wearing a Kurta and a trouser(Pyzama) which got blood stained. Thereafter, she went to her village and informed the villagers.

There is nothing in her evidence suggesting any role whatsoever played by the appellant. Both the deceased were hit with stones by Umanand(since deceased) on account of which both of them fell down and when PW-4 Maheshwari Devi who was present on the spot turned them right and put the water in their mouth, found them dead. Both the deceased died on account of injuries received by them attributable to throwing/pelting of huge stones by Umanand(since deceased).

PW 5 Satish Chandra who claims that he was also present at the scene of occurrence also says in his evidence that accused Umanand(since deceased) hit Basanti Lal on the head with stones on account of which he fell down after receiving the injury and deceased Govind Ram came running from his cowshed and on seeing him, Umanand(since deceased) also hit him on his chest by a plough(Nisuda- Exh. 1) on account of which Govind Ram also fell down. It is further in his evidence that deceased Govind Ram again got up and came near to Basanti Lal than the

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appellant Chiranji Lal caught hold of him from his back. The appellant, Umanand(since deceased) along with Govind Ram fell down. Then Govind Ram sat on the chest of both Chiranji Lal and Umanand. The evidence of PW5 Satish Chandra is neither here nor

there. He doesn't even speak about the fact that PW 4 Maheshwari Devi turned the bodies of the deceased and put water into their mouth. To a limited extent, there is a corroboration in the evidence of PW 5 Satish Chandra supporting the version of PW 4 Maheshwari Devi that it was Umanand(since deceased) who hit both the deceased with stones on account of which they sustained injuries resulting in their death. Rest of the version is a confused one which at any rate, even if accepted, does not make out any case against the appellant herein.

In our opinion, the prosecution miserably failed to establish its case against the appellant. The charge against him for the offence punishable under Section 302 fails and he is entitled to be acquitted of the said charge. The appellant Chiranji Lal is accordingly acquitted of the charge under Section 302 IPC . The conviction and sentence of the appellant is accordingly set aside. The bail bonds shall be discharged.

The appeal is accordingly allowed.

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CRIMINAL APPEAL NO. 582 OF 2005

It is stated by the learned Counsel for the appellant that the appellant Umanand died during the pendency of this appeal on 13th October, 2005. The appeal shall stand dismissed as abated.

.....J.
(B. Sudershan Reddy)

.....J.
(Surinder Singh Nijjar)

New Delhi
December 15, 2010