

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO(S). 400/2013  
DHARMENDRA

APPELLANT(S)

VERSUS

STATE OF U.P.

RESPONDENT(S)

WITH

CRIMINAL APPEAL NO(S). 607/2013

O R D E R

These criminal appeals, which are to be disposed of by a common order, are directed against the judgment of the High Court whereunder the High Court upheld the sentence and conviction of the appellants under Section 302 read with Section 34 of the Indian Penal Code (IPC).

The prosecution story, briefly stated is that, the incident occurred on 28.10.2001 in which one Arvind (hereinafter referred to as the 'deceased') was killed by the accused persons. It is alleged that some days prior to the incident a quarrel was said to have taken place between the deceased and the accused persons. As a consequence thereof accused Bali lodged a report under Section 307 of the IPC. This had caused a heart burning enmity which is said to be the motive of the incident occurred on 28.10.2001. The murder of the deceased is said to have been committed at about 9.30 a.m. when

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he was going to Nagra Haat along with his uncle Devi Sahu (PW-1) and brother Rajesh Sahu (PW-2). It is alleged that when the deceased along with his uncle and brother reached the temple of Shankar Ji, they were confronted by the accused persons, in which the appellant Dharmendra is said to have caught hold of the deceased and accused Balli fired on his forehead about 5 cm above the left eyebrow by a country-made pistol causing the deceased fall down on the ground and then accused Raju who took a stone of about 8 x 8 inch and struck on the back of his head. Devi Das Sahu, the uncle of the deceased as well as Rajendra Sahu brother of the deceased ran away from the scene of the occurrence towards a lane going to Nagra Haat to save their lives. Several persons assembled at the place of occurrence but the assailants fled away extending threat to kill if any body attempts to chase them. Devi Das Sahu went to police station and got prepared the written report made by his son on the basis of which first information report was lodged.

After completion of the investigation, the police filed charge sheet against the appellants under Section 302 read with Section 34 of the IPC. The prosecution altogether examined six witnesses (PW-1 to PW-6). The statements under Section 313 Cr.P.C. of the appellants were recorded in which they pleaded their false implication.

The learned Sessions Judge upon consideration of the evidence and material available on record held that prosecution has proved

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its case beyond reasonable doubt and accordingly convicted all the accused of the charges framed against them.

Aggrieved by the order of conviction, the accused persons preferred an appeal before the High Court. The High Court upon re-appreciation of the evidence and the totality of circumstances came to the conclusion that the appellants are guilty of the offence punishable under Section 302/34 of the IPC. Hence, the appellants are before us in these appeals challenging their conviction and award of sentence affirmed by the High Court under Section 302/34 of the IPC.

We have heard the learned counsel appearing for the appellants as well as for the State and perused the material available on record.

The arguments before us remain the same which were advanced before the High Court. In the first instance, it was argued that First Information Report (FIR) was written at the Police Station in



WITH  
Crl.A. No. 607/2013  
(WITH Office Report)

Date : 05/10/2016 These appeals were called on for hearing today.  
CORAM : HON&#39;BLE MR. JUSTICE A.K. SIKRI  
HON&#39;BLE MR. JUSTICE AMITAVA ROY  
For Appellant(s) Mr. E. C. Vidya Sagar,Adv.

Mr. S.P. Singh, Sr. Adv.  
Mr. Abdul Qudir, Adv.  
Mr. P.V. Singh, Adv.

Mr. B. K. Pal,Adv.  
For Respondent(s) Ms. P. Ratnamala,Adv.

UPON hearing the counsel the Court made the following

O R D E R

The Criminal Appeals are dismissed in terms of the signed  
order.

Pending application, if any, shall be disposed of accordingly.

(Ashwani Thakur) (Mala Kumari Sharma )

COURT MASTER COURT MASTER

(Signed order is placed on the file)