

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 878-879 OF 2014

ARJUN KURMI & ANR.

.. APPELLANTS

Versus

STATE OF BIHAR

.. RESPONDENT

ORDER

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Patna dated 27th September, 2012 passed in Criminal Appeal (DB) No.507/1990 and Criminal Appeal (DB) No.502/1990, by which the High Court has dismissed the said appeals and has confirmed the judgment and order of conviction and sentence dated 17th November, 1990 passed by the 1st Additional Sessions Judge (hereinafter referred to as the "learned Trial Court") now the Nawadah in Sessions Trial No.569/84/4 of 1988 convicting both the Accused for the offences punishable under Section 302/34 of the IPC and Sections 3 and 5 of the Explosive Substance Act, the original Accused have preferred the present appeals.

1.1. That both the original Accused were tried by the learned Trial Court for the offence punishable under Section 302/34 of the IPC

and Sections 3 and 5 of the Explosive Substance Act for having killed one Pradeep Singh. On appreciation of evidence more particularly, the deposition of PW-1 Govind Pandey, PW-2 Jageshwar Singh and PW-3 Lakhan Singh who were the eye-witnesses and the deposition of PW-4 Dr. Ajoy Kumar and other material on record and considering the further statement of the Accused recorded under Section 313 of the Cr.P.C. (which was a total denial) the learned Trial Court held the Accused guilty for the offences punishable under Section 302/34 and Sections 3 and 5 of the Explosive Substance Act and the learned Trial Court sentenced both the original Accused to undergo life imprisonment for the offence punishable under Section 302/34 of IPC. However, the Trial Court did not impose any separate sentence for the offence punishable under Sections 3 and 5 of the Explosive Substance Act.

1.2 Feeling aggrieved and dissatisfied with the judgment and order of conviction and sentence passed by the learned Trial Court, both the Accused preferred Criminal Appeal No.502/1990 and Criminal Appeal No.507/1990 respectively, before the High Court of Patna. By the impugned common judgment and order, the High Court has dismissed the said Appeals and has confirmed the conviction and sentence passed by the learned Trial Court. Hence, both the original Accused are here before this Court by the present Appeals.

2. Shri Chandra Prakash, learned counsel appearing on behalf of the original Accused has vehemently submitted that both the courts below have materially erred in convicting the original Accused relying upon the depositions of PW-1, PW-2 and PW-3, who, as such, can be said to be the interested witnesses.

3. It is further submitted by the learned counsel that as such there could have been other witnesses as the alleged incident had occurred in the market and in the broad day light, however, the prosecution did not examine any other witnesses.

3.1 It is further submitted by the learned counsel that even the prosecution has not proved beyond doubt that the deceased died because of the injuries which he sustained because of the bomb alleged to have thrown by the Accused.

4. It is further submitted by the learned counsel that as such there was enmity between the main Accused who died during the pendency of the trial and the deceased and others and, therefore, that the Accused persons were falsely implicated in the case.

4.1 Making the above submissions, it is requested to allow the present Appeals.

5. Having heard the learned counsel for the Appellants and having gone through the impugned judgment and order passed by the High Court and even considering the judgment and order passed by the learned Trial Court and on reappraisal of the entire evidence on record, we are of the opinion that both the Accused are rightly convicted for the offences under Section 302/34 of IPC having killed Pradeep Kumar.

6. The presence of the Accused has been established and proved at the place of incident by the prosecution. The prosecution has been successful in proving that the Accused persons threw the bombs due to which the deceased sustains serious injuries and thereafter succumbed to the injuries. PW-1, PW-2 and PW-3, who are the eye-witnesses have fully supported the case of the prosecution. All the three witnesses are thoroughly cross examined by the defence, however, even after thorough cross examination they have supported the prosecution and they stood by what they have stated in the examination-in-chief. Merely because they might be the relatives of the deceased cannot be a sole ground to discard the deposition. Considering the deposition of PW-1, PW-2 and PW-3, who are the eye-witnesses, we are of the firm opinion that

both the courts below have rightly convicted both the original Accused for the offence under Section 302/34 of the IPC. We see no infirmity in the impugned judgment and order passed by the High Court.

7. The Appeals are dismissed accordingly.

.....J.
(A.K. SIKRI)

.....J.
(M. R. SHAH)

New Delhi,
November 28, 2018

ITEM NO.103

COURT NO.4

SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 878-879/2014

ARJUN KURMI .

Appellant(s)

VERSUS

THE STATE OF BIHAR

Respondent(s)

(REMAIN ON BOARD)

Date : 28-11-2018 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE M.R. SHAH

For Appellant(s) Mr. Chandra Prakash, AOR

For Respondent(s) Mr. M. Shoeb Alam, AOR

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

The appeals are dismissed in terms of the signed order.

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

(ASHWANI THAKUR)
COURT MASTER (SH)

(RAJINDER KAUR)
BRANCH OFFICER

(Signed order is placed on the file)