

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 983 OF 2007

STATE OF RAJASTHAN	APPELLANT(S)	
VERSUS			
SHRI NARAYAN & ANR.	RESPONDENT(S)	

O R D E R

The respondents herein, Shri Narayan and Kadu, along with Ramesh Chand and Vijay Singh, were charged for committing murder of one Mammo Singh (hereinafter referred to as 'the deceased') under Sections 147, 148, 149, 452 and 302 of the Indian Penal Code, 1860 read with Section 3/25 of the Arms Act, 1959. The trial court acquitted Shri Narayan and Kadu, but convicted Ramesh Chand and Vijay Singh. The State preferred an appeal before the High Court and the High Court also confirmed the order of acquittal passed by the trial court as against Shri Narayan and Kadu, against which this appeal had been preferred.

Prosecution case, in brief, is as follows:

On June 10, 1999, at about 12.15 p.m., while the deceased was sitting in the office of his Advocate, he was shot dead in broad day light. Ramesh Chand and Vijay Singh, along with Shri Narayan and Kadu, were charge sheeted for committing the murder of the deceased. The prosecution has examined PW-1 to PW-23 establishing its case and Exhibit Nos. P-1 to P-62 were produced.

The trial court as well as the appellate Court, as already indicated, found both Ramesh Chand and Vijay Singh to be the persons who were involved in the incident. It was specifically found that Vijay Singh had fired two shots and that Ramesh Singh was also a party to that incident. Those facts were proved beyond reasonable doubt and no appeal has

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been preferred by them also against the judgment of the trial court.

We are, in this case, concerned only as to the involvement of Shri Narayan and Kadu.

Shri Narayan and Kadu were not armed with any type of weapon and they were not directly involved in the incident. They were not party to unlawful assembly as well. The evidences of the witnesses would indicate that the whole incident had taken place within two or three minutes. There is nothing to show that the accused persons had formed an unlawful assembly and that they had common intention to cause the death of the deceased. No evidence has been adduced by the prosecution to show that the accused persons had told one another regarding causing the death of the deceased. Ramesh Chand and Vijay Singh might be having a common intention to cause the death of the deceased. No evidence has been adduced by the prosecution that there was any meeting of five or more accused persons and they had formed an unlawful assembly and that both Shri Narayan and Kadu were members of that assembly. No other evidence had been adduced by the prosecution to show the direct involvement of Shri Narayan and Kadu with regard to the murder of the deceased. Both the trial court and the appellate court found them not guilty on the basis of the evidence adduced and we find no good reason to upset the concurrent finding.

The appeal, therefore, lacks merits and it is, accordingly, dismissed.

.....J.
(K.S. RADHAKRISHNAN)

.....J.
(DIPAK MISRA)

NEW DELHI,
MAY 03, 2013.

ITEM NO.112

COURT NO.9

SECTION II

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). 983 OF 2007

STATE OF RAJASTHAN

Appellant (s)

VERSUS

NARAYAN & ANR.

Respondent(s)

(With office report)

Date: 03/05/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN
HON'BLE MR. JUSTICE DIPAK MISRA

For Appellant(s)

Mr. Ajay Veer Singh Jain, Adv.
for Mr. Milind Kumar, Adv.

For Respondent(s)

Mr. Sushil Kr. Jain, Adv.
Mr. Puneet Jain, Adv.
Ms. Ruchika Gohil, Adv.
for Ms. Pratibha Jain, Adv.

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

The appeal is dismissed in terms of the signed order.

| (N.S.K. Kamesh)

| | (Renuka Sadana)

|
| Court Master

| | Court Master

(signed order is placed on the file)