

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). 314 OF 2007

RAGHUVEER

Appellant (s)

VERSUS

STATE OF M.P.

Respondent(s)

(With office report)

Date: 06/04/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s)

Mr. Bimal Roy Jad,Adv.
Mr. Vikram Rathore,Adv.

For Respondent(s)

Ms. Vibha Datta Makhija,Adv.

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

The appeal is dismissed.

[SUMAN WADHWA]
COURT MASTER

[VINOD KULVI]
COURT MASTER

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 314 OF 2007

RAGHUVEER

.. APPELLANT(S)

vs.

STATE OF M.P.

.. RESPONDENT(S)

O R D E R

We have heard the learned counsel for the appellant and for the State very carefully. In this case six persons in all were sent up for trial for offences punishable under Sections 148, 302, 302/149 of the IPC for having committed

the murder of Bhagirath on the 7th July 1996. The prosecution in support of its case produced several eye witnesses and in particular complainant (PW.3) Laxman, (PW.6) Parwartibai (PW.11) Gangaram (PW.11) and (PW.12) Parma. These witnesses categorically stated that it was the appellant Raghuv eer who had given the fatal blow with an axe on the head of the deceased. The prosecution also produced medical evidence and Dr. K.M.Goel (PW.1) was examined for that purpose who found two incised wounds one on the head and another on the chest. The evidence of Dr. Goel was confirmed by Dr. D.K.Athwal (PW.15) who had carried out the post-mortem examination on the dead body.

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The Trial Court has however noticed that insofar as the accused other than the appellant were concerned the evidence of some of the witnesses was ambivalent as to the weapons that they were carrying and the injuries that they had caused. It particularly noted that this uncertainty in the evidence was primarily with regard to the weapons used by Bharat Singh and Kamal Singh. Keeping in mind that the evidence with regard to five of the accused was uncertain, the Trial Court acquitted them but convicted the appellant Raghuv eer for an offence under Section 302 of the IPC and sentenced him to imprisonment for life. This judgment has been affirmed by the High Court as well. Raghuv eer is before us after the grant of special leave.

Mr. Bimal Roy Jad, the learned counsel for the appellant has primarily argued that as the Trial Court and the High Court both had held that Bharat Singh the acquitted accused had also been armed with an axe, the case of the appellant was not different from that of Bharat. He has accordingly submitted that the appellant ought to have been given the benefit which had been given to Bharat Singh and Kamal Singh. He has also submitted that in the light of the circumstance that only one injury had been caused by the appellant as per the prosecution story itself, the appellant was entitled to claim that the case was not of one of murder but culpable homicide not amounting to murder punishable under Section 304 Part-I or Part-II of the IPC.

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These pleas have been controverted by the learned counsel for the State. She has pointed out that the Trial Court was cognizant of the fact that Bharat Singh was also armed with an axe but he had been given the benefit of doubt on account of the uncertainty in the prosecution evidence as to the injury caused by him. She has also pointed out that in so far as the appellant was concerned all the witnesses referred to above had categorically

stated that the fatal blow on the head had been given by him.

We have considered the arguments advanced by the learned counsel. This argument had been raised before the Trial Court and the High Court and had been rejected. The prosecution story against the appellant has been proved by the evidence of several witnesses i.e. PW's 3,6,11 and 12 who have unanimously testified that it was the appellant who had caused the injury on the head of the deceased. The eye witnesses account is supported by the medical evidence as well. It has also to be noticed that the appeal filed by the State challenging the acquittal of the five accused has been dismissed by the High Court. In so far as the appellant is concerned, however, both the Courts have been unanimous in their opinion.

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There is also no merit with regard to the nature of the offence. The injury on the head of the deceased caused by the appellant had resulted in the fracture of the temporal bone, a fracture in the skull and the meninges on the left parietal occipital region had been sharply cut. The Doctor had also opined that the head injury was sufficient to cause death in the ordinary course of nature.

The appeal is accordingly dismissed.

.....J.
(HARJIT SINGH BEDI)

.....J.
(CHANDRAMAULI KR. PRASAD)

New Delhi,
April 6, 2011.