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Crl.A.No. 889 OF 2000

.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp

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ITEM No.102

Court No.11

SECTION IIA

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. 889 OF 2000@@  
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Satya Ram & Ors.

Appellants

VERSUS

State of Madhya Pradesh  
(With appln. for exem. from filing O.T. and  
with office report)

Respondent

Date : 16/01/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE  
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Petitioner (s) Dr. T N Singh, Sr. Adv.  
Mr. J P Pandey, Adv.  
Mr. L S Chauhan, Adv.  
Mr. Vijay Pratap Singh, Adv.  
Mr. D C Baruwa, Adv.

For Respondent (s) Mr. Rohit Singh, Adv.  
Mr. S K Agnihotri, Adv.

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

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.SP2

Dr. T N Singh, learned counsel started arguments at 12.15 P.M. and concluded at 2.10 P.M. Thereafter, Mr. Rohit Singh, learned counsel argued the matter till 2.20 P.M.

The appeal is allowed in terms of the signed order. Conviction and sentence imposed on the appellants by the Sessions Court as well as by the High Court is set aside.

...2/-

2.

It is stated before us that appellant Nos. 1 and 3 have been enlarged on bail by this Court. That be so. Their bail bonds shall stand discharged. Appellant No. 2 - Ramna shall be set at liberty, if not required in any other case.

.SP1

(Prem Prakash)  
Court Master

(Kanchan Jain)  
AR-cum-PS

Signed order is placed on the file.

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.....L.....I.....T.....T.....T.....T.....T.....T.....J

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 889 OF 2000@@  
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Satyaram & Ors. ....Appellants

VS.

State of Madhya Pradesh & Anr. ....Respondents

O R D E R@@  
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.....L.....I.....T.....T.....T.....T.....T.....T.....J

.SP2

In regard to an incident which took place on 17th January, 1983 in the village of Barwai, the appellants herein alongwith 3 other persons were sent up for trial before the learned Sessions Judge, Morena, M.P. in sessions trial no. 105 of 1983. The learned Sessions Judge, after considering the material on record, came to the conclusion that the death of the deceased - Maniram was committed by accused A-1 Laxminarayan, A-2 Satyaram, A-3 Ramna, A-5 Atar Singh and A-6 Dinesh and on the basis of the said finding he convicted the abovesaid accused persons under Sections 148 and 149 read with 302 IPC and sentenced them to undergo rigorous imprisonment for life. It acquitted accused Ramhet of the charges framed against him.

...2/-

2.

Being aggrieved by the said judgment and conviction, the convicted accused persons - five in number preferred Criminal Appeal No. 107 of 1985 before the Hon'ble High Court of Madhya Pradesh and being aggrieved of the acquittal of Ramhet, S/o Matola, the State preferred appeal in Criminal Appeal No. 209 of 1985 before the High Court. During

pendency of the appeal, the sixth accused - Dinesh died and the appeal against the said person abated.

In support of its case, the prosecution relied upon the evidence of P.W.-2 - Ramniwas, P.W.-3 - Bhola Ram and P.W.-4 - Murari Lal, who according to the prosecution, had witnessed the incident in question. The High Court, assessing the evidence of these witnesses independently, came to the conclusion that so far as P.W.-3 - Bhola Ram is concerned, he is a chance witness being a person from another village, hence it is not safe to rely upon his evidence. Accordingly, it discarded his evidence. In regard to P.W.-2 - Ramniwas, the High Court came to the conclusion that his evidence was not in conformity with the medical evidence inasmuch as the narration of the incident, as told by P.W.-2, showed the number of

...3/-

3.

injuries that ought to have been on the deceased were far more than actually found on the deceased as per the medical evidence. It also came to the conclusion that so far as the evidence of P.W.-2 is concerned, it consisted of contradictions and was not safe to rely on the same. On the said basis, it allowed the appeal of Laxminarayan and acquitted him. It, however, found the very same evidence of P.W.-2 acceptable in regard to other appellants without assigning any special reasons. In regard to P.W.-4 - Murari Lal, it came to the conclusion that his conduct was not in conformity with the natural conduct of a person inasmuch as he did not intervene in the assault of the deceased who was a close relative of his. It also found contradiction in his evidence inasmuch as he had admitted in the course of his evidence that fracture suffered by Laxminarayan - accused no. 1 was caused by an assault on him by the deceased with a lathi, which part of his evidence was not supported by any other prosecution evidence. It also found that said witness being a close relative of the deceased, his evidence being partisan, was not safe to rely upon so far as it concerned the case of the appellant

...4/-

4.

Laxminarayan before it. As was the case with the evidence of P.W.-2, the High Court while rejecting his evidence with regard to A-1, it accepted the same for convicting the appellants herein. Therefore, we find a contradiction in the approach of the High Court in regard to the appreciation of these witnesses. While the High Court found the evidence of eye witnesses not acceptable in regard to the prosecution case so far as it pertains to Laxminarayan, we do not find how the same can be accepted with regard to other accused, namely, the appellants herein. There is no reasonable

basis by which the evidence of these eye-witnesses can be accepted with reference to these appellants while the same was not acceptable in regard to the case of Laxminarayan.

We have perused the material on record and we find that the conviction as imposed by the High Court is not sustainable. In our view the appellants herein are entitled to the same benefit of doubt which was extended to Laxminarayan.

In the said view of the matter, the appeal is allowed. Conviction and sentence imposed on the appellants by the Sessions Court as well as by the High Court is set aside.

...5/-

5.

It is stated before us that appellant Nos. 1 and 3 have been enlarged on bail by this Court. That be so. Their bail bonds shall stand discharged. Appellant No. 2 - Ramna shall be set at liberty, if not required in any other case.

.SP1

.....J.  
(N. SANTOSH HEGDE)

.....J.  
(DORAISWAMY RAJU)

New Delhi  
January 16, 2002.