

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.1227-1229 OF 2009

STATE OF HARYANA . . . APPELLANT(S)

VERSUS

SIRI NIWAS ETC.ETC. . . RESPONDENT(S)

O R D E R

1. We have heard the learned counsels for the parties.
2. The State of Haryana is in appeal aggrieved by the acquittal of the accused-respondents.
3. The first three respondents-Sita Ram, Ishwar Singh and Rameshwar had been acquitted by the learned Trial Court and which has been affirmed by the High Court by the impugned order. The fourth respondent-Siri Niwas was convicted by the learned trial Court. In appeal, the conviction has been reversed and an order of acquittal has been recorded. The offence allegedly committed by the accused-respondents is one under Section 302 IPC involving the death of one Bhana Ram.

4. The prosecution, to bring home the guilt of the accused, had primarily relied on the testimony of PW-8 (Satbir Singh) and PW-10 (Ram Avtar). PW-8 was a bus driver, who was on duty to drive a Haryana Roadways Bus from Bhiwani to Garhi on the day of occurrence and to leave Garhi for Bhiwani in the next morning. The evidence on record goes to show that the PW-8 reached Garhi at about 6.30 p.m. on the day of occurrence. The occurrence took place at 7.30 p.m. and the distance between Garhi and the place of occurrence is about 40 to 45 kms. While there is evidence to show that the bus in question was driven by some other person on the next day, the trial Court held that the prosecution has not satisfactorily explained as to how the PW-8 could reach the place of occurrence in less than one hour. PW-10, who was claimed by the prosecution to be present at the place of occurrence, however, was not noticed by the Investigating Officer to be at the said place. In fact, the statement of PW-10 under Section 161 Cr.P.C. was recorded on the next date at

about 9.00 a.m. Despite the aforesaid lacuna in the prosecution case, the trial Court accepted the evidence of Pws 8 and 10. Insofar as other accused are concerned, the evidence on record would go to show that though a sharp weapon was recovered at the instance of accused, Sita Ram, no blood stains were found on the said weapon. Insofar as accused-Iswar Singh and Rameshwar are concerned, though the prosecution alleges that they were armed with fire arms, no evidence of use of any fire arm has been forthcoming.

5. In the above facts, while the learned trial Court thought it proper to acquit accused -Sita Ram, Rameshwar and Iswar Singh, the conviction of the accused-Siri Niwas was made, as it appears, primarily on the basis that the weapon which was recovered at his instance had some blood stains.

6. The High Court on reconsideration of the matter, while affirming the findings of the learned trial Court insofar as the acquitted accused are concerned took the view that if the presence of Pws 8 and 10 at the

place of occurrence is doubtful, the entire prosecution story becomes suspect.

7. On the above materials on record which we have noticed we are of the view that the conclusion of the High Court with regard to the evidence of Pws 8 and 10 and the role of the accused in the crime cannot be faulted. On due application of the parameters that should govern this Court's examination of a judgment of acquittal rendered by the High Court we are of the view that the said conclusion of the High Court ought to be affirmed.

8. The appeals preferred by the State, therefore, have to fail and are accordingly dismissed. The acquittal of the accused-respondents is affirmed.

....., J.
(RANJAN GOGOI)

....., J.
(R. BANUMATHI)

....., J.
(NAVIN SINHA)

NEW DELHI
JULY 25, 2018

ITEM NO.102

COURT NO.2

SECTION II-B

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). 1227-1229/2009

STATE OF HARYANA

Appellant(s)

VERSUS

SIRI NIWAS ETC.ETC.

Respondent(s)

Date : 25-07-2018 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE NAVIN SINHA

For Appellant(s) Mr. Ashish Pandey, Adv.
Mr. Atul Mangla, AAG
Mr. Inderjit, Adv.
Ms. Manpreet Kaur Bhalla, Adv.
Dr. Monika Gusain, AOR

For Respondent(s) Mr. K.G. Bhagat, Adv.
Ms. Archana Midha, Adv.
Mr. Vineet Bhagat, 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, shall stand
disposed of

(NEETU KHAJURIA)
COURT MASTER

(ASHA SONI)
BRANCH OFFICER

(Signed order is placed on the file.)