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Crl.A.No. 955 OF 1997  
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 955 OF 1997

State of U.P. ....Appellant

Versus

Ram Singh & Ors.....Respondents

O R D E R

The State of Uttar Pradesh is in appeal before us challenging the judgment of acquittal of the High Court of Allahabad. The respondents herein were charged of offence punishable under Section 302 read with 34 IPC before the Sessions Judge, Hardoi on an allegation that on 17th July, 1978 at about 7.45 p.m. these respondents caused the murder of deceased, Surendra Kumar alia s Kallu in the city of Hardoi because of prior political and land dispute. The complaint in regard to this incident was lodged by PW.1, Jagdamba Prasad father of the deceased at about 8.25 p.m. in Kotwali, Hardoi about four furlong away from the place of incident which was in front of Saroj Hotel in Hardoi city. The prosecution alleges that the incident in question was witnessed apart from PW.1 also by PW.2, Ashok Kumar and PW.3, Hanuman Singh and three others who have not been examined. In their evidence PWs. 1, 2 and 3 stated that on 17th of July, 1978 they had gone to the Court of II Additional Munsif Magistrate, Hardoi for furnishing a surety and having finished court work, when they were returning, on the way they stopped at Saroj Hotel and when they came out after having their food they were confronted by the accused persons and the exhortion made by A2 and A3, A1 shot the deceased on his neck with gun consequent to which the deceased fell down. PW.1 the father of the deceased stated that he then went to the police station to lodge a complaint. Before going there he said to Ashok Kumar, PW.2 to carry his injured son to the hospital. It is the further case of the prosecution that the deceased died soon after the attack. The trial court accepting the evidence of Pws.1, 2 and 3 found the respondents herein guilty of the offence punishable under Section 302 read with 34 IPC and sentenced them to undergo imprisonment for life.

As stated above in the appeal filed by the respondents the High Court rejecting the evidence of Pws.1, 2 and 3 allowed the appeal and set aside the conviction and sentence imposed by the trial court. In the course of its judgment the High Court came to the conclusion that Pws.1, 2 and 3 could not have witnessed the incident. It noticed the fact that though the purpose of the witnesses to visit the court along with the deceased was to furnish a surety, Pws.1 and 3 had not furnished any such surety. Explanation given by these witnesses that they did not have the necessary revenue records for furnishing surety hence they could not furnish the same was not accepted by the High Court. The High Court also noticed the fact that all the witnesses were inimically disposed towards the respondents herein. It further found the fact that these witnesses stayed in Hardoi to take food in the Saroj Hotel could not be true because if it was so then the semi-digested food could not have been found in the stomach of the deceased.

The explanation given by the eye-witnesses in regard to the finding of the semi-digested food in the stomach of the deceased was not acceptable to the High Court which was considered it as an improvement. The High Court also noticed the fact that the oral evidence given by PWs. 1, 2 and 3 was not in conformity with the medical evidence in regard to the injuries suffered by the deceased. On this basis the High Court came to the conclusion that the prosecution has not proved its case beyond reasonable doubt against the respondents hence acquitted them. Having heard the arguments of the learned counsel for the parties and perused the records, we do not find any reason to interfere with the findings of the High Court. For the reasons stated above the appeal fails and the same is dismissed.

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

.....J.  
( B.P. SINGH )

NEW DELHI,

MARCH 11, 2004.  
ITEM No.102

Court No.4

SECTION II

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.955 of 1997

STATE OF U.P. Appellant (s)

VERSUS

RAM SINGH & ORS. Respondent (s)

Date : 11/03/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE  
HON'BLE MR. JUSTICE B.P. SINGH

For Appellant (s)Mr. Prashant Choudhary, Adv.  
Mr. J.K. Bhatia, Adv.

For Respondent (s)Mr. R.K. Jain, Sr.Adv.  
Mr. N.S. Gahlot, Adv.  
Mr. Sahdev Singh Pundhir, Adv.  
Mr. Vishwajit Singh, Adv.

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

Heard learned counsel for the parties.  
The appeal fails and the same is dismissed in terms of the signed order.

(PAWAN KUMAR) (PREM PRAKASH)  
COURT MASTER COURT MASTER  
(signed order is placed on the file)