

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.1427 OF 2004

RAJU @ RAJA RAM & ORS.

Appellant (s)

VERSUS

STATE OF M.P.

Respondent(s)

(With appln(s) for exemption from filing O.T. and office report)

Date: 09/01/2007 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE P.P. NAOLEKAR

HON'BLE MR. JUSTICE ALTAMAS KABIR

For Appellant(s)

Dr. T.N. Singh, Sr. Adv.

Mr. Lakhan Singh Chauhan, Adv.

Dr. Kailash Chand, Adv.

For Respondent(s) Ms. Vibha Datta Makhija, Adv.

Mr. B.S. Banthia, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

The appeal in relation to accused - Raju, Ganga Ram and Ramdas is dismissed; whereas the appeal in relation to accused - Manohar is allowed and his convictions and sentences are set aside and he is acquitted of the charges. Appellant Manohar, who is in custody, is directed to be released forthwith, if not required in connection with any other case.

[Alka Dudeja]

Court Master

[Om Prakash]

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1427 OF 2004

Raju @ Raja Ram and Ors.

...Appellant(s)

Versus

State of Madhya Pradesh

...Respondent(s)

O R D E R

Heard learned counsel for the parties.

The four appellants, along with one Lalaram, were convicted by the trial court under Section 302 read with Section 149 of the Indian Penal Code [for short, 'I.P.C.'] and sentenced to undergo imprisonment for life. They were further convicted under Section 148 I.P.C. and sentenced to undergo rigorous imprisonment for a period of one year each. Both the sentences were, however, ordered to run concurrently. On appeals being preferred, the High Court confirmed the convictions and sentences awarded against the appellants and accused - Lalaram.

The present appeal by special leave has been filed by the four appellants, namely, Raju @ Raja Ram, Manohar, Ganga Ram and Ramdas. So far accused - Lalaram is concerned, he has not preferred any appeal.

....2/-

- 2 -

The prosecution case has been supported by the evidence of P.W.2, who was an injured eye-witness. So far accused - Raju, Ganga Ram and Ramdas are concerned, they were assailants and armed with different weapons. The statement of P.W.2 in relation to these three persons is consistent and supported by post mortem report. In our view, the High Court was quite justified in confirming their convictions. So far accused - Manohar is

concerned, according to the First Information Report, he was with the members of the prosecution party and he did not go with the aforesaid three accused persons. He was not armed with any weapon. From the First Information Report it cannot be said that he was member of the unlawful assembly. P.W.2, when examined in Court, has made statement for the first time in Court that this accused caught hold of the deceased - Khushali when he was assaulted by other three accused persons. This statement made by P.W.2 in Sessions Court is an improvement in the prosecution case to fasten guilt upon this appellant with the aid of Section 149 I.P.C., for which there is absolutely no whisper in the First Information Report. This being the position, we are of the view that the prosecution has failed to prove its case beyond reasonable doubt so far appellant - Manohar is concerned and the High Court was not justified in upholding his convictions.

....3/-

- 3 -

Accordingly, the appeal in relation to accused - Raju, Ganga Ram and Ramdas is dismissed; whereas the appeal in relation to accused - Manohar is allowed and his convictions and sentences are set aside and he is acquitted of the charges. Appellant - Manohar, who is in custody, is directed to be released forthwith, if not required in connection with any other case.

.....J.

[B.N. AGRAWAL]

.....J.

[P.P. NAOLEKAR]

.....J.

[ALTAMAS KABIR]

New Delhi,

January 09, 2007.