

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO. 174 OF 2010

RICHHPAL ... Appellant

VERSUS

THE STATE OF RAJASTHAN & ORS. ... Respondents

WITH

CRIMINAL APPEAL NO. 175 OF 2010

CRIMINAL APPEAL NO. 176 OF 2010

O R D E R

Out of these three appeals, two appeals are preferred by the State and one by the complainant questioning the validity of the judgment dated 24.02.2006 rendered by the High Court of Judicature for Rajasthan.

In respect of an incident that occurred on March 21, 1998, in which one Neki Ram died, seven persons were charged and made to face trial for the offences punishable under Sections 147, 148, 149, 341, 302, 323 and 307 of the Indian Penal Code (IPC).

The trial Court, after holding the trial, acquitted four co-accused persons but convicted Ram Niwas under Section 302 IPC, Ravinder and Rajesh under Sections 302/34 IPC and inflicted sentence of life imprisonment. These persons challenged the verdict of the trial Court by filing appeal. The State of Rajasthan as well as the complainant

also filed appeal against that part of the judgment of the trial Court whereby four co-accused persons were acquitted. All these appeals were heard together and disposed of by the aforesaid common judgment of the High Court. Insofar as the acquittal of four persons by the trial Court is concerned, the same is maintained after appreciation of the material available on record and evidence which emerged. In the process, the High Court also accepted the findings of the trial Court that there was no common intention shared by the accused persons to kill Neki Ram and thus, provisions of Section 34 IPC were not attracted.

For this reason, the appeals of the State as well as of the complainant against the acquittal of four co-accused persons were dismissed. Insofar as the appeals of the three convicted persons, named above are concerned, the High Court has partly allowed the appeal of Ram Nivas by converting the conviction from that of one under Section 302 IPC to Section 304 Part II IPC and the appeals of the other two convicts viz., Ravinder and Rajesh were also partly allowed by acquitting them of the charge under Sections 302/304 IPC but confirmed their conviction under Sections 324/323 IPC. In coming to the aforesaid conclusion, the High Court has taken into consideration the following circumstances:

"7. Factual scenario emerges from the material on record is as follows: -

(i) As per informant Richhpal (PW.1) one Mukti Lal hurled abuses at Rameshwar Kaka. A meeting of family members therefore was held and in that meeting Mukti Lal said sorry to Rameshwar Kaka.

(ii) In the written report it was stated that Ram Niwas was armed with Lathi but he and Ravindra inflicted knife blows on the person of Nekiram but specific injury was attributed to Ram Niwas. But in the deposition at the trial, informant Richhpal stated that Ram Niwas inflicted knife blow on the neck of Nekiram whereas Ravindra gave blow with knife to Gulab and Mukesh.

(iii) Richhpal in his cross-examination stated that in the meeting the assailants were present but they did not have arms. Richhpal did not know as to from where the arms came in the possession of the assailants.

(iv) Deceased Nekiram, injured Gulab, Mukesh and the appellants were near relatives and all resided near the place of incident.

(v) The incident occurred after the meeting of family members dispersed and before the incident hot words were exchanged between the deceased and Ram Niwas. According to Gulab (PW.12) Ram Niwas told Nekiram that 'Gali Use Kya di, Hamen Dekar Dekho (why abuse was hurled at him, let abuses be hurled at us) Nekiram then replied "Sabko ek lathi se mar Hanko, apne apne ghar jao (don't push everybody with one stick, go your respective homes).

(vi) Solitary incised wound received by Nekiram was attributed to Ram Niwas and he did not repeat the same.

(vii) Injuries on the person of Gulab and Mukesh were attributed to Ravindra and Rajesh.

(viii) Mukesh (PW.5) deposed that although he received injuries, he did not see the assailant because of darkness. Mukesh was declared hostile.

8. In the backdrop of fact situation of the present case we find that the appellants did not share common intention to kill Nekiram. Section 34 IPC deals with the doing of separate acts, similar or diverse, by several persons, if all are done in furtherance of a common intention, each person is liable for the result of them all as if he had done then himself. In the present case the incident occurred all of sudden after the meeting of family members dispersed. There was no previous enmity between appellant Ram Niwas and the deceased. The

crime was committed without premeditation. The quarrel arose on a spur of moment, only one injury was caused in the heat of passion and appellant Ram Niwas did not take undue advantage or acted in a cruel or unusual manner. The case of appellant thus comes within Exception 4 to Section 300 IPC with the result that the offence committed was culpable homicide not amounting to murder."

We have gone through the judgment in question and do not find it a fit case to interfere with the aforesaid approach of the High Court.

These appeals are, accordingly, dismissed.

....., J.  
[ A.K. SIKRI ]

....., J.  
[ ASHOK BHUSHAN ]

New Delhi;  
August 31, 2017.

ITEM NO.108

COURT NO.6

SECTION II

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. 174/2010

RICHHPAL

Appellant(s)

VERSUS

THE STATE OF RAJASTHAN & ORS.

Respondent(s)

WITH

Cr1.A. No. 175/2010 (II)

Cr1.A. No. 176/2010 (II)

Date : 31-08-2017 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Appellant(s) Mr. Rameshwar Prasad Goyal, AOR

Mr. R. Gopalakrishnan, AOR

For Respondent(s) Mr. Rohit K. Singh, AOR

Mr. Ranbir Singh Yadav, AOR

Mr. S. S. Shamsery, Adv.

Mr. Amit Sharma, Adv.

Mr. Ankit Raj, Adv.

Mr. Milind Kumar, 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.

(NIDHI AHUJA)  
COURT MASTER

(MALA KUMARI SHARMA)  
COURT MASTER

[Signed order is placed on the file.]