

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No 1059 OF 2010

MANGILAL

APPELLANT(S)

VERSUS

STATE OF MADHYA PRADESH

RESPONDENT(S)

O R D E R

The appellant stands convicted under Section 302 of the Indian Penal Code, 1860 and sentenced to life imprisonment.

The occurrence is stated to have taken place on 24.09.1997 at 10 p.m. in the courtyard of PW-3 who is also an eye-witness and the brother of the deceased.

Learned counsel for the appellant submitted that in the facts of the present case, considering that PW-3 is the solitary eye-witness, there are contradictions in his evidence and certain events remained unexplained, it will, therefore, be unsafe to convict the appellant on the solitary testimony of an interested eye-witness.

It was next submitted that it is highly doubtful if PW-3 was actually an eye-witness or heard any noise preceding the assault or thereafter by relying upon the evidence of PW-4 to submit that there was a distance of about 50 steps between the place where PW-3 was sitting, watching TV and the spot where the occurrence took place.

Pws 7 and 8, the other eye-witnesses, have not supported the allegations. If Pws 3, 7 and 8 had reached the place of assault, there is no explanation why three persons could not accost the sole appellant to prevent the assault or catch him.

It was lastly submitted that PW-3 has contradicted himself with regard to the motive for the assault being illicit relations of the deceased with the wife of the appellant. Furthermore, PW-3 deposed that he had told the police that the axe was struck from the back side, but there is no such reference in his statement.

Learned counsel for the respondent has opposed the appeal submitting that PW-3 is the brother of the deceased. The assault has taken place in their house. There is nothing to doubt the credibility of his evidence as an eye-witness. He has been subjected to a lengthy cross-examination, but has remained consistent and firm.

We have considered the submissions.

The deceased was the brother of PW-3. The assault had taken place at 10 p.m. at night in the courtyard of PW-3. The distance between where PW-3 was watching TV and the assault took place is hardly 10 to 12 steps. The reference to 50 steps in the evidence of PW-4 is apparently with regard to the place where he was watching TV in his house and the spot where the assault took place. It will not be wrong to presume that at that late hour in the night when the assault had taken place inside

the premises of PW-3, he is bound to be a natural witness. There are three lacerated wounds on the head and two incised injuries. The manner of the assault leaves no doubt about the intention of the appellant. The fact that the three persons were unable to accost the appellant does not appeal to us as it has to be kept in mind that the appellant was armed with an axe. The contradictions which were highlighted to doubt the credibility of PW-3 are minor in nature and do not affect the substance of his evidence which has been found reliable. No other view is possible.

We, therefore, find no reason to interfere with the impugned order. The appeal is dismissed.

The appellant is on bail. His bail bonds are cancelled. He is directed to surrender within a period of four weeks to serve out the remaining period of his sentence.

.....J.
[Navin Sinha]

.....J.
[Indira Banerjee]

New Delhi;
August 27, 2019

ITEM NO.104

COURT NO.12

SECTION II-A

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).1059/2010

MANGILAL

Appellant(s)

VERSUS

STATE OF MADHYA PRADESH

Respondent(s)

Date : 27-08-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Appellant(s) Mr. Praveen Chaturvedi, AOR
Ms. Jyoti Chaturvedi, Adv.

For Respondent(s) Mr. Rahul Kaushik, AOR
Ms. Bhuvneshwari Pathak, Adv.
Ms. Shilpi Satyapriya Satyam, Adv.

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

The appeal is dismissed in terms of the signed order.

The appellant is on bail. His bail bonds are cancelled. He is directed to surrender within a period of four weeks to serve out the remaining period of his sentence.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER

(Signed order is placed on the file)