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IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s).2382 OF 2009

RAMBIR & ANR.

..Appellants

VERSUS

STATE OF HARYANA

..Respondent

O R D E R

In this appeal, the soundness of the judgment of conviction and order of sentence dated 31.3.2008 passed by the High Court of Punjab & Haryana at Chandigarh in Criminal Appeal No.215-DB/2009 whereby it has partially modified the judgment of conviction and order of sentence passed by the trial court by acquitting two of the accused persons and affirming the conviction and sentence in respect of the present appellants, is challenged.

2. The factual narration need not be stated elaborately except the factum that on 14.4.1997 the accused persons alongwith other persons came and assaulted Daryao Singh, the father of P.W.7, and in the said incident, number of persons were injured. On an FIR being lodged by the informant, the criminal law was set in motion and after due investigation, a chargesheet was laid and eventually all the accused persons were sent up for trial.

3. The learned trial Judge convicted the present appellant alongwith two other accused Om Parkash and Sat Pal for offences punishable under Section 302 of Indian Penal Code and many other offences. The present appellants alongwith Om Parkash and Sat Pal preferred criminal appeal and the High Court analysing the evidence and giving credence to the testimony of eye witnesses affirmed the conviction of the present appellants but acquitted Satpal and Om Parkash on the ground that there was possibility of exaggeration pertaining to the assault on the deceased to rope in the said accused persons in the offence of murder. However, the conviction in respect of other offences was maintained and they were asked to pay compensation of Rs.50,000/- each to the victim and to the injured persons in equal share, and in default of payment of compensation, to undergo one year rigorous imprisonment each. Aggrieved by the aforesaid judgment, the present appeal has been filed.

4. Learned counsel for the appellants has submitted that the evidence brought on record is replete with discrepancies and inconsistencies and deserve to be discarded. He has also endeavoured to submit that a juvenile was involved and the evidence recorded in the Juvenile Court was different than what has been recorded in the trial.

5. Per contra, Mr. Kamal Mohan Gupta, learned counsel for the respondent-State submitted that P.W.7, the son of the deceased, has categorically deposed about the involvement of the accused appellants and the High Court has correctly believed the testimony of such witness.

6. To appreciate the rival submissions raised at the Bar we have perused the evidence on record and on a scrutiny of the testimony of P.W.7 who is an injured eye witness and the son of the deceased, we find there is no justification to discard his testimony, the same being unimpeachable. He has clearly stated in his deposition that on the date of occurrence, that is, 14.4.1995, the accused-appellants alongwith others came armed with weapons and gave "gandasa" blows on

the head of his father, as a consequence of which he suffered a number of injuries and eventually succumbed to the same while being carried to the hospital for treatment. Despite exhaustive and roving cross examination, nothing has been elicited on the base of which it could be said that the said witness had deliberately implicated the accused. That apart we perceive no fathomable reason why the son of the deceased would implicate the present accused-appellants and leave the real culprits. It is also worth noting that the injuries that has been stated by P.W.7 finds apposite corroboration from the post-mortem report. In view of the aforesaid material on record we are disposed to hold that even if there is any kind of discrepancy or inconsistency in the evidence of other witnesses, the version of P.W.7 being firm and beyond reproach can be relied upon.

7. For the sake of completeness, we must also dwell upon the contention which has been advanced by Mr. Jain, learned counsel for the appellants that in the trial before the Juvenile Court, some other kind of evidence was given. The said contention has been dealt with by the High Court in its judgment. We think it proper to reproduce the same:

"..Trials were different, evidence of defence was different and whatever be the nature of evidence in the juvenile court, there being separate set of evidence in the present trial, we do not find any ground to reject the version given by the prosecution witnesses at the trial, which is reliable and proves the case of the prosecution fully to the extent mentioned above."

8. In our considered opinion, the delineation by the High Court cannot be found fault with and accordingly we concur with the same.

9. In view of the aforesaid premised reasons, we come to hold that there is absolute unimpeachable evidence on record to sustain the conviction of the accused appellants under Section 302 IPC. The ultimate result is, dismissal of the appeal which we direct.

.....J.  
[ DR. B.S. CHAUHAN ]

.....J.  
[ DIPAK MISRA ]

NEW DELHI  
MAY 16, 2013  
ITEM NO.110 COURT NO.2 SECTION IIB

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(s). 2382 OF 2009

RAMBIR & ANR. Appellant (s)

VERSUS

STATE OF HARYANA Respondent(s)

(With appln(s) for bail and office report)

Date: 16/05/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN  
HON'BLE MR. JUSTICE DIPAK MISRA  
(VACATION BENCH)

For Appellant(s) Mr. Ajay Veer Singh Jain,Adv.,  
Mr. Nitin Jain,Adv.  
Mr. Atul Agrawal,Adv.  
Mr. R.K. Verma,Adv.  
Mr. U.R. Bokadia,Adv.  
Ms. Divya Garg,Adv.  
Mr. Mohd.Irshad Hanif,Adv.

For Respondent(s) Mr. Vikas Sharma,Adv.  
Mr. Ramesh Kumar Shokeen,Adv.  
Mr. Kamal Mohan Gupta,Adv.

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

The appeal is dismissed, in terms of the signed order.

(O.P. Sharma)  
Court Master

(M.S. Negi)  
Court Master

(Signed order is placed on the file)