

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). 955 OF 2000

STATE OF RAJASTHSAN

Appellant (s)

VERSUS

RAGHUNANDAN

Respondent(s)

(With office report)

Date: 21/09/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Appellant(s)

Mr. Milind Kumar, Adv.

Mr. Aruneshwar Gupta,Adv.

For Respondent(s)

Mr. Manohar Singh Bakshi, A.C.(NP)

UPON hearing counsel the Court made the following

O R D E R

None appears for the respondent.

The appeal is dismissed in terms of the signed order.

ardwaj)

(Meenu Sethi)

(Pushap Lata Bh

Court Master

Court Master

Signed order is placed on the file

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

State of Rajasthan ... Appellant

VERSUS

Raghunandan@Bhawani ... Respondent
Prasad

O R D E R

None appears for the respondent.

The State is in appeal before us against the judgment and order dated 2.7.1998 passed by the High

Court of Judicature at Rajasthan in Criminal Appeal No.

61 of 1996, whereby and where under the judgment of conviction and sentence passed by the Additional

Sessions Judge, Gangapur City in Sessions case No.

50/94 convicting the respondent for alleged offence under Section 302 IPC has been set aside.

The prosecution case is as under:

An information was received in Police Station,

Gangapur City from PW4- Mohan Singh that the

deceased Bhupendera Singh had been murdered by some

unknown persons. In course of investigation some

witnesses were examined; one of them being a friend of

the deceased, PW-1-Hemant Kumar. Although some

other persons are also said to have identified Appellant but keeping in view the fact that nobody had seen him in the company of the deceased, the High Court did not put reliance on their testimonies.

The only eye witness examined by prosecution was the aforementioned Hemant Kumar.

P.W.1- Hemant Kumar in his deposition alleged that on 25.3.1994 at about 8.15 in the night he met the deceased. Admittedly, they were not on talking terms for a long time. They had met after a long time. He was asked by the deceased to sit with him. One Biri Singh, a guard of the P.W.D. rest house, came there. The deceased told Biri Singh to bring Scooter from his shop. On this, Biri Singh went towards his shop. After some time Ashok, younger brother of Bhupendra Singh brought the scooter. Thereafter, both went off in the said scooter only for whittling away time. The deceased purchased beer. They consumed the same. They came to a Chabutra of a Higher Secondary School and chatted for some time. Thereafter, they went to a lottery counter. Admittedly, again they consumed some beer. Around 9.45 p.m. in the evening, P.W.1 was asked to get another bottle of beer. When he came back,

respondent was seen quarelling with the deceased.

Allegedly, he fired at the deceased all of a sudden.

PW 1, although, was relied by the learned trial Judge; the High Court disbelieved his testimony on more than one reason.

The High Court opined: (1) it was wholly unlikely that PW1 had spent so much time with the deceased and consumed beer and roamed about with him on a scooter for hours, although they had not been on talking terms for a long time; (2) The conduct of PW1 to the effect that immediately after the occurrence took place, he took the scooter of the deceased, went towards the Udai Mode which is at a far away place to inform Ashok- the younger brother of the deceased about the incident, although his uncle and another brother were residing nearby.; (3) P.W.-1 in his deposition, categorically, admitted that in between the place of incident and Udai Mode, where Ashok had been residing, there were police stations and thus, it is wholly unlikely that he would not inform the police; (4) in the first information report lodged by PW4, it was stated that some unknown person had killed the deceased, thus respondent No.1 had not been named in the First Information Report.

Having heard learned counsel appearing for the State and having gone through the judgment of the High Court as also that of the learned trial judge, we are of the opinion that it cannot be said that the reasons assigned by the High Court in passing the impugned judgment of acquittal are unreasonable and the said view could not have been taken.

As indicated herein before PW1 is said to be an eye witness, but the High Court has assigned sufficient and cogent reasons to disbelieve his testimony. We do not, thus, see any reason to interfere with the said finding of fact in exercise of our jurisdiction under Article 136 of the Constitution, particularly, when the view of the High Court is also a possible one. The appeal is dismissed.

J.

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(S.B. SINHA)

.....J.

(DALVEER BHANDARI)

New Delhi,

September 21, 2006.