

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). 97 OF 2007

STATE OF RAJASTHAN

Appellant (s)

VERSUS

DEVI LAL & ANR.

Respondent(s)

Date: 15/05/2012 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) Dr. Manish Singhvi, AAG
Mr. Milind Kumar, Adv.

For Respondent(s) Mr. Harinder Mohan Singh, Adv.

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

The appeal preferred by the State, being sans
merit, stands dismissed in terms of the signed order.

(DEEPAK MANSUKHANI) (M.S. NEGI)
Court Master Court Master
(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 97 OF 2007

STATE OF RAJASTHAN

Appellant (s)

VERSUS

DEVI LAL & ANR.

Respondent(s)

O R D E R

The present appeal by special leave assails the judgment of conviction and order of sentence passed by the High Court dated 21st September, 2005 in Criminal Appeal No. 275 of 1991 whereby the High Court has unsettled the judgment and order passed by the Additional Sessions Judge, Chittorgarh, dated 1.8.1991 whereby the respondents -accused persons were convicted under Sections 302, 302/34, 323, 324 and 323/34 and 324/34 IPC and sentenced to rigorous imprisonment for life under Section 302 IPC and for lesser period in respect of other offences with the stipulation that the sentences shall run concurrently. Be it noted, during the pendency of the appeal before the High Court one of the accused

persons, namely, Chunni Lal, expired as a result of which the appeal against him abated.

The facts, in brief, are that the accused persons, namely, Devi Lal, Dei Lal and Chunni Lal being armed with gun and lathies went on 29-30 September, 1998 to the house of the accused. There was a free fight and in the said fight, the deceased Karan Singh succumbed to the injuries instantaneously and others suffered minor injuries. The accused persons during trial denied the charges and the trial Court on appreciation of evidence brought on record found them guilty and convicted them as has been indicated hereinbefore.

-2-

Being dissatisfied the accused appellants preferred appeal before the High Court. In appeal it was urged that the informant and his group were the aggressors and, in fact, they had come to the house of the respondent Chunni Lal being armed with weapons and assaulted him and other co-accused persons. It was also contended that under the circumstances, they had exercised the right of private defence as they had no other option but to save themselves. The High Court by a reasoned and cogent order accepted the plea by taking note of the fact that the respondents had suffered injuries; that the informant and others had come armed with lethal weapons; and that they were the aggressors; that Raghuveer Singh was carrying a gun and actively participated in the assault; that there was undoubtedly a free fight between the two groups; and that Dei Lal and Devi Lal had really not shared the common intention in the murder of Karan Singh.

On a close scrutiny of the judgment rendered by the High Court, we are of the considered opinion that there has been no common intention inasmuch as the accused respondents were only present and did not participate in the crime. On the contrary, they were injured when the free fight took place between Raghuveer Singh and others.

Regard being had to the totality of the circumstances, we have no doubt that the acquittal of the respondents Devi Lal and Dei Lal for offences under Section 302/34 IPC as well as for the offences under Sections 324/34 and 323/34 IPC cannot be found fault with. Be it noted, the appeal as far as Chunni Lal is concerned got dismissed on the ground that it stood abated.

-3-

In view of the aforesaid analysis, the appeal

preferred by the State, being sans merit, stands
dismissed.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(DIPAK MISRA)

NEW DELHI
MAY 15, 2012.