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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s).197 OF 2010

RAM SINGH

..APPELLANT

VERSUS

STATE OF HARYANA

..RESPONDENT

O R D E R

Seven accused persons, namely, Krishna, Ram Singh, Karambir, Satbir Singh, Sita Ram, Jagdish and Rattan Singh were sent up for trial for offences punishable under Sections 302/323/325/148 read with Section 149 of the Indian Penal Code ('IPC' for short) on the allegations that they had gone to the land cultivated by deceased Mani Ram who claimed to be a tenant of Krishna on the intervening night of 17/18.6.1982 and on being exhorted by Krishna, Karambir and Satbir other accused persons who were carrying 'lathis' and 'spade' assaulted the deceased and dragged his body to the house of Rattan Singh. The incident, as put forth by prosecution, was witnessed by Dinesh Kumar, P.W.5, the grand son of Mani Ram. Dinesh, P.W.5, and Bhagirath, P.W.6, followed the accused persons to the house of Rattan Singh and beseeched them to spare Mani Ram and made an effort to save his life. Though the occurrence took place about 3.00 a.m. yet Dinesh and Bhagirath were detained in the house of Rattan Singh till 8.30 a.m.. The factual score would further reveal that FIR was lodged by Vijay, the other son of Mani Ram at the Police Station alleging kidnapping of his father. After 8.30 a.m. when Dinesh and Bhagirath were released they came to the Police Station and eventually the dead body was recovered and FIR was registered under Section 302 IPC.

2. The learned trial Judge on the basis of ocular and documentary evidence brought on record found that all the seven accused persons were guilty of the charge and accordingly convicted them to suffer rigorous imprisonment for life with a default clause under Section 302 IPC and further imposed separate sentences in respect of other offences.

3. On an appeal being preferred the High Court took note of the stand raised before it especially the contention that the testimony of P.W.5 who was cited as an eye-witness, could not be believed regard being had to the discrepancies in the Statement under Section 161 Cr.P.C. and the version of Dinesh and Bhagirath in court and the impossibility of hatching of conspiracy by Krishna with his two brothers Satbir and Karambir to commit the crime, as the son of Krishna was on dialysis at Chandigarh. The High Court opined that the whole testimony could not be disbelieved because of some exaggeration and accordingly expressed doubt about the presence of Krishna, Satbir and Karambir at the scene of occurrence. Being of this view, it acquitted those three convicts and maintained the conviction in respect of four accused persons.

4. Be it noted, all the other convicts have accepted the conviction and sentence and not preferred any appeal except the present appellant, that is, Ram Singh.

5. Mr. Mukesh Sharma, learned counsel appearing for the

appellant has submitted that the High Court has fallen into error by giving credence to the testimony of P.W.5. He has also questioned the veracity of the version of P.W.6. Learned counsel would submit that there is demonstrable delay in lodging the FIR and the whole case of the prosecution is founded on suspicion.

6. Per contra, Mr. Kamal Mohan Gupta, learned counsel appearing for the respondent-State would contend that initially the FIR was lodged for kidnapping, thereafter, coming to know about the death of the deceased, it was converted to one under Section 302 IPC. It is urged by him after P.Ws 5 and 6 were released from the custody of Rattan Singh they informed about the incident and hence, there was no delay in lodging of the FIR though Vijay had earlier lodged an FIR for kidnapping. It is also submitted by the learned counsel for the State that nothing has been elucidated despite exhaustive cross examination of the witnesses which would make their testimony untrustworthy.

7. To appreciate the submissions propounded at the Bar, we have, with great anxiety, perused the judgment of the learned trial court as well as that of the High Court. We have also carefully perused the evidence on record. On a scrutiny of the same, we have noticed that Dinesh P.W.5., a 15 year old boy, has deposed about the incident which inspires confidence. It is also perceptible that he has stood embedded in the cross examination and remained totally unshaken in his version. That apart his testimony about the assault has received corroboration from the medical evidence. It is to be noted here that he has not ascribed any role to Krishna and his brother relating to assault but he restricted the assault part only to the four convicted persons. As far as Bhagirath, P.W.6 is concerned, he has corroborated the version of P.W.5. The discrepancies which are sought to be highlighted are absolutely minor in nature and in no way would make his testimony incredible. The injury that has been found by the doctor who conducted the post mortem do tally with the injuries that has been caused by 'Lathi' and 'Spade'. In view of the material brought on record, we find it really difficult to accept the submission of Mr. Sharma, learned counsel for the appellant that the whole case is founded on suspicion.

8. In fact, the evidence brought on record by the prosecution clearly establish the complicity of the accused persons in the crime in question. Thus, the obvious consequence is concurrence with the judgment of the High court and dismissal of the appeal, and accordingly we so direct.

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

NEW DELHI
MAY 17, 2013
ITEM NO.102
COURT NO.2
SECTION IIB
.....J.
[DIPAK MISRA]

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). 197 OF 2010

RAM SINGH

Appellant (s)

VERSUS

STATE OF HARYANA

Respondent(s)

(With office report)

Date: 17/05/2013 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. Mukesh Sharma,Adv.
Mr. Rameshwar Prasad Goyal,Adv.

For Respondent(s) Mr. Vikas Sharma,Adv.
Mr. Ramesh Kumar,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) (M.S. Negi)
Court Master Court Master
(Signed order is placed on the file)