

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.807/2009

GULAB . . .APPELLANT(S)

VERSUS

STATE OF MADHYA PRADESH . . .RESPONDENT(S)

O R D E R

1. The accused-appellant had been convicted under Section 302/149 and 148 IPC and sentenced to undergo rigorous imprisonment for life under Section 302/149 and rigorous imprisonment for one year under Section 148 IPC. The High Court while acquitting the accused-appellant under Section 148 IPC, convicted him under Section 302/34 IPC and sentenced to undergo life imprisonment. Hence this appeal.

2. We have heard the learned counsels for the parties.

3. We have scrutinized the evidence and other materials on record as well as the

judgment of the High Court and the learned trial Court.

4. Having considered the matter in great detail, we are of the view that the only point for consideration in this appeal is whether the evidence tendered by PW-1, Leela Bai, daughter of the deceased, is worthy of credence. The other witnesses examined by the prosecution i.e. PW-8 (Chunna) and PW-11 (Udham) had turned hostile whereas the reason to disbelieve the evidence of PW-4 (Munna Lal) was that the said person was not mentioned as eye-witness either in the F.I.R. or in the initial statement of PW-1 recorded under Section 161 Cr.P.C.

5. While appreciating the evidence of PW-1 we have also kept in mind that the families of the deceased and the accused-appellant had some previous enmity.

6. PW-1 in her deposition had stated that she had been informed about the incidence by one Laxmi Bai and the place where she came

to know about the assault on her father was about 300 yards from the place of occurrence. According to PW-1 she came running and saw the accused-persons assaulting the deceased.

7. The medical report which described the injuries indicate is as follows :

- (1) Incised cut end of rt. forearm just over lower end of radius ulna bone on wrist joint. Both cut ends skin muscles retracted;
- (2) Incised cut (imputation) left middle 2/3rd forearm underline bone radius ulna. Skin muscles corrum bonding each other cut ends.
- (3) Incised wound over left lateral forehead size 8x1x0.5 cm and 1 cm behind hairline;
- (4) Incised wound 4 cm medial to injury no.3;
- (5) Incised wound size 6x2x2 cm horizontally over back of chest;
- (6) Abrasion mark over left shoulder size 4x2 cm
- (7) Incised wound over thigh size 5x2x2 cm.
- (8) Incised open fracture size 14x5x7 cm. above anterior lateral knee joint muscles and lower end of femur cut;
- (9) Incised wound size 8x25 cm. above rt. anterior medial knee joint over thigh obliquely anterior medial femur underline wound cut; and

(10) Incised wound over rt. medial middle arm size 2x0.5x0.5 cm.

8. From the nature and number of the injuries it can be safely concluded that assault on the deceased had continued for some time. Therefore, the version of the PW-1 that she came running and witnessed the assault commends to us for acceptance and the fact that the families of the accused and the deceased had some enmity three years old will not be sufficient to discredit or disbelieve the testimony of PW-1.

9. The statement made by PW-1 in her cross-examination that her statement to the effect that the accused was not there at the place of occurrence when she had reached is also not of much significance as in her cross examination itself she had denied making such statements before the police and pleaded that if so recorded the police had recorded the said statement wrongly.

10. When two Courts have believed PW-1 and the evidence of the said witness, being

what we have stated above, and the circumstances in which such statement was made, we find that the prosecution on the basis of the evidence of PW-1 has been able to bring home the case against the accused appellant.

11. We, therefore, dismiss the appeal and affirm the conviction recorded and the sentence imposed by the High Court.

....., J.
(RANJAN GOGOI)

....., J.
(NAVIN SINHA)

....., J.
(K.M. JOSEPH)

NEW DELHI
SEPTEMBER 11, 2018

ITEM NO.101

COURT NO.2

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). 807/2009

GULAB

Appellant(s)

VERSUS

THE STATE OF MADHYA PRADESH

Respondent(s)

Date : 11-09-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE K.M. JOSEPHFor Appellant(s) Mr. Rajesh, AOR
Mr. Yogesh Tiwari, Adv.For Respondent(s) Ms. Swarupama Chaturvedi, AOR
Mr. B.N. Dubey, Adv.
Ms. Devika, Adv.
Ms. Vaishali Verma, Adv.UPON hearing the counsel the Court made the following
O R D E RThe appeal is dismissed in terms of the
signed order.In view of the above, pending
application(s), if any, shall stand disposed of.(NEETU KHAJURIA)
COURT MASTER(ASHA SONI)
ASSISTANT REGISTRAR

(Signed order is placed on the file.)