

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 2250 OF 2010

PARAMLAL & ORS.

Appellant(s)

VERSUS

STATE OF M.P.

Respondent(s)

O R D E R

This Appeal under Section 2 of the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970, as amended by the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Amendment Act, 1972 read with Section 379 of the Code of Criminal Procedure, 1973 is directed against the Judgment and Order dated 23rd April, 2010 passed by the High Court of Madhya Pradesh at Jabalpur in Criminal Appeal No. 1224 of 1993 setting aside the judgment of acquittal rendered by 4th Additional Sessions Judge, Chhatarpur in Sessions Trial No. 10 of 1991 on 29th December, 1992.

According to the prosecution, one Nandkishore was assaulted by five persons named Paramlal, Ramlal, Shriram, Hakku and Jaggu on 13th October, 1990 at about 7.30 p.m. According to the prosecution this incident was witnessed by PW3-Chhotelal and PW4-Durjan(both brothers of said

Nandkishore) and certain other persons. The injured was then removed to the hospital where in the early hours of 14th October, 1990, he breathed his last.

The post mortem was conducted on the dead body of the deceased by PW 8- Dr. R.K. Khare who found the following ante-mortem injuries on the body..

- "(1) Contusion - 3cm present over right temporomandibular joint.
- (2) Contusion - 3cm x 2cm left temporal region, in front of ear.
- (3) Contusion - 2cm right parietal region.
- (4) Contusion - 2 ½ cm left hand over the dorsum.
- (5) Abrasion 1 ½ cm right shoulder upper part.

On internal postmortem examination of the deceased, PW 8- Dr. R.K. Khare found as follows:

Right parietal bone fractured extending from midline downwards, vertically, extradural haematoma present over right side of cranium subdural haematoma present over right cerebral hemisphere."

Those five persons, named in the FIR as assailants, were arrested on 23rd October, 1990 and disclosure statements under Section 27 of the Indian Evidence Act, 1872, of some of them led to the recovery of lathis. After completing the investigation these five persons were charged for offence punishable under Section 302 read with Sections 147 and 149 of the Indian Penal Code, 1860.

One of the aforesaid five persons namely Jaggu having been found to be juvenile, the trial as regards Jaggu was separated and the other four persons were tried for the aforesaid offence. The trial court by its judgment and Order dated 29th December, 1992 acquitted them of the charges levelled against them. The trial court principally relied upon the following circumstances:

(A) Though the incident had occurred on 13th October, 1990 and the FIR lodged soon thereafter in the early hours of 14th October, 1990, none of the alleged assailants was arrested till 23rd October, 1990, for which no explanation was forthcoming;

(B) In the requisition preferred by the Investigating Officer for conducting post mortem upon the dead body of the deceased, in the column, meant for identity of the assailants, no name was mentioned;

(c) Going by the version of PW3 and PW 4 they were at least 100 feet away from the place of incident when the assault had allegedly occurred;

(d) All five prosecution witnesses stated to be eye witnesses to the occurrence, were all relations of the deceased while two other independent persons mentioned as witnesses in the FIR were not examined by the prosecution.

In the backdrop of the aforesaid basic features of the matter, the trial court found the case of the prosecution unworthy of acceptance and granted benefit to the accused and acquitted them of all the charges.

This judgment of acquittal has been upset and set aside by the High Court in the Judgment under Appeal

convicting the appellants of the charges leveled against them and sentencing them to life imprisonment.

We have carefully gone through the reasons which have weighed with the High Court. We have also considered the submissions advanced on behalf of both sides and having carefully gone through the record, we find that the reasons which weighed with the trial court are not only borne out from the record but certainly constitute a possible view which ought not to have been interfered with while considering an appeal against acquittal. We find there was no justification to upset the judgment of acquittal rendered by the trial court. In the circumstances, we allow this appeal, set aside the judgment and order of the conviction passed by the High Court and restore the judgment and order passed by the trial court.

The appellants shall be set at liberty forthwith, unless they are not required in any other case. The operative portion shall be communicated to the jail authorities where they are presently lodged.

.....J
(V. GOPALA GOWDA)

.....J
(UDAY UMESH LALIT)

NEW DELHI
February 11 , 2016

ITEM NO.101

COURT NO.9

SECTION IIA

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). 2250/2010

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STATE OF M.P.

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(with appln. (s) for bail and exemption from filing O.T.)

Date : 11/02/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s) Mr. Prasanna Mohan, Adv.
 Mr. Kunal Verma, Adv.
 Ms. Y.P. Jha, Adv.

For Respondent(s) Mr. Sunny Choudhary, adv.
 Mr. Mishra Saurabh, Adv.

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

Appeal is allowed. The judgment and order of the conviction passed by the High Court is set aside and the judgment and order passed by the trial court is restored.

The appellants shall be set at liberty forthwith, unless they are not required in any other case. The operative portion shall be communicated to the jail authorities where they are presently lodged.

(NEELAM GULATI)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

(Signed Order is placed on the file)