
(2009) 04 SC CK 0085

In the Supreme Court Of India

Case No : Criminal Appeal No's. 1315 and 1321 of 2002

Hetram

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 22-04-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 148, 149, 302, 307, 325

Citation : (2009) 04 SC CK 0085

Hon'ble Judges : G. S. Singhvi, J;B. N. Agrawal, J

Bench : Division Bench

Final Decision : Partly Allowed

Judgement

1. Heard learned Counsel for the parties.

2. Twenty two persons were put on trial. Out of them eight persons, namely, Prakash (A-8), Shyam (A-10), Ratanlal (A-13), Naresh (A-14), Bhagirath (A-15), Keshav (A-20), Babulal (A-21) and Totaram (A-22) were acquitted by the Trial Court. Remaining fourteen persons were convicted u/s 302/149 of the Indian Penal Code [for short, 'I.P.C.'] and sentenced to undergo imprisonment for life and to pay fine of Rs. 100/-; in default, to undergo rigorous imprisonment for a period of three months. They were further convicted u/s 307/149 I.P.C. and sentenced to undergo rigorous imprisonment for a period of three years and to pay fine of Rs. 100/-. The accused persons were also convicted u/s 148 I.P.C. and sentenced to undergo rigorous imprisonment for a period of two years. The sentences were ordered to run concurrently. Against the order of acquittal of eight persons, no appeal was preferred by the State of Madhya Pradesh whereas fourteen accused persons filed the appeal. During the pendency of appeal before the High Court, Barelal (A-5) died and, as such, his appeal abated. Out of the remaining thirteen accused, Mohan (A-1), Amar Singh (A-2), Kailash (A-4), Sohan (A-6), Babulal (A-9), Nandu (A-12) and Dhaniram (A-17) were acquitted and conviction and sentence of six persons were upheld by the High Court. Challenging the same, these two appeals have been filed. Criminal Appeal No.

1315 of 2002 has been filed by Hetram and Criminal Appeal No. 1321 of 2002 has been filed by the remaining five accused, out of whom, Munna (A-11) and Kishori (A- 18) died during the pendency of the appeal. Consequently, their appeal abated.

3. We have gone through the judgments of the trial Court and High Court and scrutinized the evidence. From a bare perusal of post mortem report and the statements of Dr. R. Gajwani (P.W.15) and Dr. V.K. Mehta (P.W.16), it becomes clear that the deceased, Man Singh and injured Prem Kumar (P.W.8) did not receive injury on any vital part of their bodies and none of the injuries found on the person of the deceased and P.W.8 was grievous. In the opinion of the doctors, the injuries could have been caused by blunt weapons. This being the position, the appellants could not have been convicted u/s 302/149 I.P.C. and Section 307/149 I.P.C.. At the highest, they could be convicted u/s 325 I.P.C. For the reason afore-stated, the appellants' conviction under Sections 302/149 I.P.C. and 307/149 I.P.C. is set aside and they are convicted u/s 325 I.P.C. The conviction of the appellants u/s 148 I.P.C. is upheld.

4. We have been told that the appellants have remained in custody for a period of more than 22 months. In our view, ends of justice would be met if the sentence of imprisonment awarded to the appellants u/s 148 is reduced to the period already undergone and for the offence u/s 325, they are sentenced to imprisonment for the period already undergone.

5. The appeals are disposed of in the above terms. The appellants, who are on bail, are discharged of the liability of bail bonds.