
(2009) 03 SC CK 0065

In the Supreme Court Of India

Case No : Criminal Appeal No. 1275 of 2002

Jagdish

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 19-03-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 34

Citation : (2009) 9 SCC 495

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

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Heard learned Counsel for the parties.
2. The sole appellant, along with accused, Dhiran, Ram Swarup, Prakash and Champa, were tried for the charge u/s 302 read with Section 34 of the Indian Penal Code [for short, 'I.P.C.'], but were acquitted by the Trial Court. Against the order of acquittal, the State of Madhya Pradesh filed an appeal before the High Court, which upheld the acquittal of other four accused persons, but reversed the same in relation to the appellant and convicted him u/s 302 IPC and sentenced to undergo imprisonment for life. Hence, this appeal by special leave.
3. We have been taken through the judgments rendered by the Trial Court and the High Court, apart from the evidence of P.W.1 (Naktu), the informant, who was chowkidar of the village as well as the evidence of three eye-witnesses, namely, P.W.2 (Lahori Bai), P.W.3 (Bimla Bai) and P.W. 5 (Grisham Bai). Undisputedly, the informant, before going to the Police Station for lodging first information report, met the aforesaid witnesses but none of them disclosed the name of the accused to him. As a result of this, the first information report was lodged against unknown persons. The prosecution has failed to furnish any explanation as to why the names of accused persons were not disclosed to P.W.1 when he visited the residence of the deceased. The Trial Court, after taking into

consideration all relevant material, refused to place reliance upon the evidence of the eye-witnesses and held that the prosecution has failed to prove its case beyond reasonable doubt. Accordingly, it acquitted all the accused including the appellant. The approach adopted by the Trial Court for recording the order of acquittal was correct and findings recorded by it did not suffer from any perversity, yet the High Court upset the same qua the appellant by placing reliance upon the statements of the so-called eye-witnesses. It is well settled that in an appeal against acquittal, the appellate court can not interfere with the same. As the judgment of acquittal rendered by the Trial Court cannot be said to be preserved, the High Court was not justified in interfering with the same and convicting the appellant u/s 302 IPC.

4. Accordingly, the appeal is allowed, impugned judgment of the High Court, so far the same relates to the appellant, is set aside and the order of acquittal recorded by the Trial Court is restored.

5. The appellant, who is on bail, is discharged from the liability of bail bonds.