

(2013) 09 MP CK 0203
In the Madhya Pradesh High Court
Case No : Cr.A. No. 1992 of 2012

Mahendra Nagpure

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 06-09-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 372
Penal Code, 1860 (IPC) — Section 149, 201, 302

Citation : (2013) 09 MP CK 0203

Hon'ble Judges : B.D. Rathi, J;Ajit Singh, J

Bench : Division Bench

Advocate : Surendra Singh, with Mr. Manish Mishra, for the Appellant; C.K. Mishra, Government Advocate for the respondent No. 1-State, for the Respondent

Final Decision : Dismissed

Judgement

B.D. Rathi, J.—Heard on admission. This appeal has been preferred u/s 372 of the Code of Criminal Procedure (hereinafter referred to as "the Code") being aggrieved with the judgment dated 18.7.2012 passed by II Additional Sessions Judge, Waraseoni, District Balaghat, in Sessions Trial No. 171/2010, whereby respondents namely Ramkishore, Bablu alias Ravindra, Karanlal, Hous Ram, Kankarlal and Nandkishore have been acquitted of the offences punishable u/s 302 in alternative 302/ 149 and 201 of the Indian Penal Code ("IPC" for short).

2. Prosecution case, in brief, is that during the period 26/8/10 to 29/8/10, they committed the murder of Surendra Nagpure at Village Ladsada and for the purpose of disappearing the corresponding evidence, threw the dead body into a Well situated in the field of one Pitam Nagpure located by the side of Village Ladsada Padampur Road.

3. Learned Senior Counsel as well as learned Government Advocate submitted that the trial Court has not properly appreciated the evidence on record and the impugned judgment deserves to be interfered with.

4. Having regard to the arguments advanced by the parties, we have gone through the impugned judgment.

5. Rajesh (PW15) has been cited as eye-witness but his evidence was disbelieved by the trial Court because of the fact that he did not depose that by which weapon the offence was committed. Further, he claimed that the miscreants were twisting the neck of the deceased, but no corresponding injury was found and Dr. R.K. Dongre (PW11), who conducted the autopsy, did not opine that Surendra had died due to strangulation or asphyxia. Besides that, police statement of Rajesh (PW15) was recorded after a month and during this period he had not narrated the incident to anyone due to threats given by the respondents. However, his evidence was disbelieved, due to the fact that he did not even apprise his brother Radheshyam (PW1) of the incident, who had lodged missing person report. It was not proved from the evidence on record, that after 8 p.m., deceased and respondent were seen together and before 8 p.m., there was a dispute during playing of cards, that was settled by the witnesses. In the aforesaid premises, the trial Court found that the chain of circumstantial evidence was not complete and the prosecution had failed to prove its case beyond a reasonable doubt.

6. We agree with the findings recorded by the trial Court.

7. It is well settled that the judgment of acquittal should not be disturbed unless the conclusions drawn on the basis of evidence brought on record are found to be grossly unreasonable or manifestly perverse or palpably unsustainable.

8. Taking into consideration the reasons assigned on the face of evidence on record establishing the aforesaid facts and circumstances, the view taken by the learned trial Court was apparently a possible view. As such, no interference is called for with the judgment of acquittal in question. The appeal, being devoid of merit and substance, stands dismissed.