
(2009) 04 RAJ CK 0123
In the Rajasthan High Court

Ramesh	Vs	APPELLANT
State of Rajasthan		RESPONDENT

Date of Decision : 30-04-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 394
Penal Code, 1860 (IPC) — Section 307

Citation : (2010) 2 RLW 1113

Hon'ble Judges : Mahesh Bhagwati, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Bhagwati, J.—Criminal Appeal No. 283/1986 is directed against the judgment and order dated 13th June, 1986 rendered by Additional Sessions Judge No. 1, Bharatpur whereby the accused-appellant Ramesh was convicted in the offence u/s 307 of Indian Penal Code and sentenced to suffer rigorous imprisonment for six years and a fine of Rs. 1,000/-; in default of payment of fine, to suffer further rigorous imprisonment for one year.

2. State of Rajasthan also filed criminal appeal bearing No. 529/1986 against the accused-respondents namely Mawasi, Ramchandra, Mansa, Kirodi, Kanwar Pal, Ramcharan and Sukhlal impugning their acquittal in the offences Under Sections 147, 148, 307 and 379 of Indian Penal Code, but the leave to appeal against Mawasi and Ramchandra was granted and leave to appeal as against rest of them was refused vide order dated 22.10.1986 of this Court.

3. Since, both the criminal appeals arise out of and pertain to judgment dated 13.6.1986 rendered by Additional Sessions Judge No. 2, Bharatpur in Sessions Case No. 29/1984, they are being disposed of by this common order.

4. Learned Counsel for the accused-appellant Ramesh filed an application stating that the appellant had died during the pendency of the appeal. Learned Public Prosecutor was directed to obtain verification Report with regard to his death

from the concerned Police Station. Shri G.S. Fauzdar, Public Prosecutor appearing for the State has submitted the Death Certificate of appellant Ramesh issued by Sarpanch Gram Panchayat Jahanpur, Panchayat Samiti Bair, District Bharatpur as also the verification Report of S.H.O. Police Station Halena in this regard. As per the Report of Sarpanch, Gram Panchayat Jahanpur, the appellant Ramesh is found to have expired 15 years back from today. S.H.O. Police Station Halena has also verified stating that soon after the death of appellant Ramesh, his family members left the village and went to Hindaun. None of his family members resides now in village Jahanpur. Hence, in view of the Death Certificate of appellant Ramesh issued by the Sarpanch Gram Panchayat Jahanpur and the Verification Report sent by S.H.O. Police Station Halena, the criminal appeal filed on behalf of the accused-appellant Ramesh stands abated u/s 394 of Cr.P.C.

5. So far as the case of Respondent Nos. 2 and 3 namely Mawasi and Ram Chandra is concerned, it is noticed that PW.2 Dauzi; PW. 3 Ram Kishore; P.W. 5 Chetram; P.W. 6 Mussumat Darbi; P.W. 7 Rambharosi; PW. 8 Mohar Singh; PW. 9 Yadram and PW. 10 Jagdish deposed during the trial that the accused-respondents Mawasi and Ram Chandra also fired with Desi Katta on Mussumat Drabi, Rambharosi and Ram Kishore but they did not state this statement during investigation in their statements recorded u/s 161 Cr.P.C. When these witnesses were confronted during trial with their statements recorded u/s 161 Cr.P.C., they simply stated that they had given these statements to the Police also which was not recorded by the Investigating Officer. These witnesses seem to have given an exaggerated account of the incident and made an improvement in their earlier statements recorded by the Investigating Officer so as to falsely implicate them which renders their testimony to be unreal and untrustworthy. The learned trial Court did not rely upon the statements of these witnesses for the reason that they were exaggerated and not duly substantiated by the medical evidence. Apart this, no Desi Katta is found to have been recovered at the instance of these accused-respondents.

6. The learned trial Court has examined the statements of these witnesses at length and after their proper appreciation arrived at cogent finding of acquittal of both the accused-respondents Mawasi and Ram Chandra. The impugned judgment with regard to acquittal of these two accused-respondents does not suffer from any infirmity. I am in unison with the findings of acquittal arrived at by the learned trial Court and to my view, the impugned judgment does not call for any intervention.

7. For these, reasons, the criminal appeal filed on behalf of accused-appellant Ramesh abates u/s 394 of Cr.P.C.

8. The criminal appeal filed by the State against the accused-respondents Mawasi and Ram Chandra being bereft of merits stands dismissed. Their bail bonds also stand discharged.