
(1997) 09 SC CK 0036

In the Supreme Court Of India

Case No : Criminal Appeal No. 879 of 1996

Satya Narayan Thakur

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 16-09-1997

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : (1998) 1 PLJR 2

Hon'ble Judges : S.P. Kurdukar, J;M.M. Punchhi, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. There are concurrent judgments of the Court of Session as well, as of the High Court in maintaining the conviction of the sole Appellant u/s 302 IPC and his sentence of life imprisonment.

2. The prosecution case is short and straight. On 4.5.87 at about 6.00 P.M., the first informant, Bhichchan Mahto was chatting with P.Ws. 5 and 7 and one Ram Narayan Sharma He saw from a distance his elder brother, Ram Sewak Mahto and the Appellant coming from the eastern direction in order to go towards the west. The deceased passed by and proceeded further as did the Appellant. A few minutes later P.W. 4 informed Bhichchan Mahto that he had incidentally been to his chilli field where he found two persons fighting. This put the first informant to alert. As he alongwith P.Ws. 5 and 7 rushed to the field and found the Appellant sitting on the chest of his brother, Ram Sewak Mahto pressing it and simultaneously inflicting in- juries by a knife. On seeing P.Ws. arrive, he fell upon them with his knife and fled from the place of the occurrence. The alarm raised attracted other people to the spot. The injured was taken to the hospital where he succumbed to his injuries. Basgit Mahto, P.W. 6 reported the matter to the police. After investigation, the Appellant was put to trial, convicted and sentenced in the manner as stated above.

3. The prosecution case is supported by P.Ws. 6 and 7 since P.W. 5 did not support the prosecution case and had to be declared hostile. On that basis and on the basis that the investigating officer was not examined by the prosecution, it has been urged on behalf of the Appellant that it would be safe to maintain his conviction. Besides P.W. 6 is the brother of the deceased and hence interested. The High Court has observed that it did not appear that these two witnesses had made contradictory statements on material points and that contradictions pointed out by the defence were trivial and insignificant, not affecting the prosecution at all. It is not the multiplication of witnesses which would carry the day but the quality of their evidence P.Ws. 6 and 7 have given a cogent and consistent account of the occurrence. There is no reason why the accused should not be convicted as indeed the Courts below did for such a heinous crime, on the mere fact that P.W. 5 did not support the prosecution or that the investigation officer could not be examined by the prosecution. The conviction of the Appellant is thus well based. There is no ground for interference.

4. As a result of the afore discussion the appeal fails and is hereby dismissed.