

(1980) 01 SC CK 0035
In the Supreme Court Of India
Case No : Criminal Appeal No. 264 of 1973

State of Bihar

APPELLANT

Vs

Brahmdeo Prasad and Others

RESPONDENT

Date of Decision : 16-01-1980

Acts Referred:

Penal Code, 1860 (IPC) — Section 149, 302

Citation : AIR 1980 SC 551 : (1980) CriLJ 406 : (1980) 3 SCC 411 : (1980) SCC(Cri) 776 : (1980) 12 UJ 456

Hon'ble Judges : S. Murtaza Fazal Ali, J;A. D. Koshal, J

Bench : Division Bench

Final Decision : dismissed

Judgement

S. Murtaza Fazal Ali, J.—This appeal by special leave is directed against the judgment of the Patna High Court dated 19-3-1973 acquitting the respondents of the charges framed against them.

2. The respondents were convicted by the 3rd Additional Sessions Judge, Patna u/s 302/149 Indian Penal Code and also other sections of I.P.C. As the Sessions Judge had sentenced Brahmdeo Prasad and Had Lal Prasad to death, a reference was made to the High Court for the confirmation of the sentence of death.

3. The facts of the case have been detailed in the judgment of the High Court and it is not necessary to repeat the same.

4. Mr. D.P. Singh, Counsel appearing for the State took us through the judgment of the High Court as also to the evidence of the main identifying witnesses. The High Court has detailed the infirmities which were found in the identification of the accused and has acquitted the respondents mainly on the ground that the identification of the accused was not free from doubt. Admittedly the occurrence took place during night and all the identifying witnesses appeared to have seen the accused from quite a long distance. Some of them did not know the accused and identified them in the Court for the first time. Other witnesses who know the

accused did not disclose their names before the S.D.O at the first opportunity. There were other set of witnesses who failed to identify the respondent at a T I. Parade and identified them for the first time by face in the Court. The High Court has in a very scientific fashion categories to the identification of witnesses and given cogent reasons for not setting upon the identification of witnesses. Although Mr.Singh argued the case with great vehemense, yet after going through the judgment of the High Court and Sessions Judge, we are satisfied that it cannot be said in the circumstances that the view taken by the High Court was not reasonably possible. In fact, on the other hand, we find ourselves in complete agreement with the view taken by the High Court in the facts and circumstances of the case.

5. In the above circumstances, the appeal fails and is therefore dismissed.