
(2012) 03 SHI CK 0434

In the High Court Of Himachal Pradesh

Case No : Criminal Appeal No. 350 of 2005

State of Himachal Pradesh

APPELLANT

Vs

Ram Lal and Others

RESPONDENT

Date of Decision : 05-03-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 149, 323, 427, 451

Citation : (2012) 03 SHI CK 0434

Hon'ble Judges : Surinder Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Surinder Singh, J.—The State has challenged the acquittal of the respondents in case No. 22/2/2004/2003 decided on 29.4.2005 by the learned trial Court for the offences punishable under Sections 147, 149, 451, 323, 506 and 427 Indian Penal Code. Respondent No. 1 Ram Lal is stated to have died. The death certificate is on record. The appeal abates against him.

2. The prosecution story, as borne out from the evidence on record can be stated thus. On 5.7.2003 PW1 Mathu Ram was present in his house along with his family members. Around 10 p.m. he was attracted by some commotion. On coming out, he noticed that respondents were armed with dandas hurling abuses on him. On seeing Mathu Ram, respondent Ram Lal caught-hold of him from his neck and slapped him as well as his wife PW2 Smt. Belku. In the meantime, family members of the respondents took them to their respective houses whereas witness Raja Ram took the complainant to his house and thereafter went to Pradhan, Gram Panchayat.

3. The matter was reported to the police. Police investigated the matter, visited the spot, prepared the site plan, took into possession the lathi and also medically examined the injured from PW8 Dr. Suresh Thakur. He noticed minor injuries on the person of PW1 Mathu Ram and his wife PW2 Belku and issued the medico

legal certificates.

4. On completion of the investigation, challan was presented in the Court for their trial.

5. Respondents were accordingly charge- sheeted. They pleaded not guilty and claimed trial. After the trial, they were acquitted on the ground that the material witnesses were not examined whereas PW7 Yashwant Singh did not support the case of the prosecution, as alleged. PW4 Raja Ram did not say anything about the incident rather he was cited as a witness of recovery and also that the complainant and his wife admitted strained relations with the respondents. Thus, no clinching evidence came forward to authenticate the veracity of the complainant.

6. I have re-appraised the evidence on record.

7. Admittedly PW4 Raja Ram, who is alleged to have cited as an eye witness did not say anything about the alleged incident. According to him, police in his presence recovered some stones and dandas from the spot. Another eye witness PW7 Yashwant Singh did not support the case of the prosecution as such he was declared hostile. Though in cross examination conducted by the learned Public Prosecutor, stated that some persons who had manhandled the complainant and his wife were taken to their house without mentioning their names. PW2 Smt. Belku Devi stated that when there was some noise out side, her husband was present in the kitchen. Attracted by some commotion, he came out. She named Shiv Dayal and Ram Lal giving threshings to him but could not say about the weapon used as such she was also declared hostile. In cross-examination, she could not name or identify the other accused persons nor any role played by them. She also could not spell-out the reason for picking-up the quarrel by the respondents with them. Her husband Mathu Ram admitted that Mohinder Singh had filed case against the respondents wherein he has been cited as a witness but so far he did not appear witness in any of the cases against the respondents. According to the complainant, Nisha was also one of the witnesses having seen the occurrence but she was not examined. PW5 Mohinder Singh stated having filed case in the Court of SDM against the respondents. He admitted that he was not pulling on well with the respondents since the elections held in the year 2003.

8. PW6 Sabri Devi is the wife of Mohinder Singh aforesaid. She is also a witness in that case filed by her husband Mohinder Singh. She admitted that she was not in the visiting terms with the respondents for the last about a year. Injury found on the person of PW1 Mathu Ram is only abrasion on the right elbow edge which was epithelium crusting and contusion on the lower lip which was red and blue in colour and qua his wife, she only complained of pain on the left shoulder joint and no swelling restriction was found in the movement. The respondents in their statements have denied any such incident and pleaded innocence and their false implication on the ground of enmity.

9. On the critical examination of the evidence, I do find that the findings of

acquittal recorded by the learned trial Court are borne out from the record which requires no interference. As such the appeal filed by the State is dismissed. The respondents are discharged of their bail bonds entered upon by them at any stage during the proceedings of this case.