
(2010) 05 SHI CK 0075
In the High Court Of Himachal Pradesh
Case No : Criminal M.P. (M) No. 356 of 2009

State of H.P.

APPELLANT

Vs

Sunil @ Sheelu and Others

RESPONDENT

Date of Decision : 14-05-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 143, 147, 149, 323, 506

Citation : (2010) 05 SHI CK 0075

Hon'ble Judges : Surinder Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Surinder Singh, J.

Cr.M.P.(M) No. 356 of 2009

1. Heard.

2. This is an appeal against acquittal filed by the State in Case No. 163-2 of 2005 decided on 01.12.2008 by the Learned Sub Divisional Judicial Magistrate, Rampur Bushehar, District Shimla, H.P.

3. Precisely, the case of the prosecution is that on 10th July, 2005 at about 10:30 P.M. a marriage party came to village of the complainant at Geti. There was some verbal wrangle interse Sheelu and Kanwar Singh complainant. He segregated both the parties. It is alleged that around 11:00 P.M. Sheelu and others gave severe beatings to complainant Kanwar Singh and was threatened with dire consequences.

4. The matter was reported to police which culminated into the F.I.R. EX.PW-1/A. Police visited the spot. Keher Singh and Kanwar Singh aforesaid were got medically examined. Their medical certificates were obtained. The Police prepared the site plan and recorded the statements of the witnesses. Thereafter, the challan was presented in the court for trial of the Respondents for the offence

punishable under Sections 143, 147, 323, 506 read with Section 149 of IPC. At the end of the trial Respondents were acquitted on the ground that there was a cross F.I.R filed by the Respondents and from the evidence on record, it was not clear as to who was the aggressor. Since there was no clinching evidence on this aspect of the case, as such, Respondents were acquitted by giving them benefit of doubt.

5. Vide order dated 24th of June, 2009, this fact was noticed by this Court and clarification was sought as to what had happened to the cross case. The Learned Additional Advocate General on the instructions of S.I. S.H.O. Puroshotam Singh, present in the court stated that the complainant party were accused in the cross F.I.R. No. 55/2005 faced trial and acquitted by the Learned trial Court and State has not assailed their acquittal.

6. Record of the Learned Trial Court has been received and perused. The defence raised by the Respondents in this case is that the complainant party, in this case were the aggressors and they had also filed the cross F.I.R., regarding the same incident. PW-5 ASI Sada Nand stated that it was a different incident but, PW-1 Kehar Singh admitted that the Respondent had lodged the F.I.R against him with respect to the same incident. Although both these cases were investigated by different Police Officers, but in order to find out as to who was aggressor in this case, both these cases were requested to be tried simultaneously but separately. In such like situation and factual background, when the aggressor is not known the benefit of doubt was rightly given by the Learned Trial Court to the Respondents. In view of this leave to appeal the appeal is denied, hence the application is dismissed.