

(2022) 03 RAJ CK 0039

In the Rajasthan High Court

Case No : S.B. Criminal Appeal No. 1084, 1376 Of 2017

State Of Rajasthan

APPELLANT

Vs

Mana Ram And Others

RESPONDENT

Date of Decision : 08-03-2022

Acts Referred:

Indian Penal Code, 1860 — Section 34, 323, 324, 325, 341

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(x), 3(2)(V)

Citation : (2022) 03 RAJ CK 0039

Hon'ble Judges : Pushpendra Singh Bhati, J

Bench : Single Bench

Advocate : N.S. Bhati, Umesh Shrimali, N.A.

Final Decision : Dismissed

Judgement

Pushpendra Singh Bhati, J

1. In the wake of instant surge in COVID – 19 cases and spread of its highly infectious Omicron variant, abundant caution is being maintained, while hearing the matters in the Court, for the safety of all concerned.

2. Above-numbered criminal appeal No.1084/2017 has been preferred against the judgment dated 24.08.2016 passed by the learned Sessions Judge, Jalore in Sessions Case No.76/2011, acquitting the respondents for the offence under Sections 323, 324 & 325/34 IPC.

2.1 Above-numbered criminal appeal No.1376/2017 has been preferred against the judgment dated 24.08.2016 passed by the learned Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Jalore in Special Sessions Case No.06/2011, acquitting the respondents for the offence under Sections 341, 323 or 323/34, 325 or 325/34, 307 or 307/34, 427 IPC and Section 3(1)(x) and 3(2)(V) of SC/ST (Prevention of Atrocities) Act, 1989.

3. Learned Public Prosecutor appearing on behalf of the appellant-State (Criminal

Appeal No.1084/2017) submits that the learned courts below passed the impugned orders of acquittal, on the basis, amongst others, of the cross case between the parties, followed by challan having been filed, despite the fact that a bare perusal of the FIR clearly reveals that the respondents were the aggressors in the alleged incident. As per the learned Public Prosecutor, the same has been corroborated by the deposition made by the prosecution witnesses.

4. Learned Public Prosecutor for the appellant-State (Criminal Appeal No.1376/2017) submits that the record of the case clearly reveals that the respondents were having animosity with the injured party, as the respondents were trying to grab the plot of the complainant party, and the respondents in that process, also hurled caste based abuses against the complainant.

5. Learned Public Prosecutor for the appellant-State in both the appeals, further submits that the despite sufficient evidence available on the record before the learned courts below, including the oral testimony of the prosecution witnesses, the learned courts below, holding that the prosecution has failed to prove its case beyond doubt, acquitted the respondents, while giving them the benefit of doubt.

6. Learned Public Prosecutor for the appellant-State thus submits that the impugned orders passed by the learned courts below, in the aforesaid backdrop, were lacking cogent reasoning and finding, and therefore, the same deserve interference of this Court.

7. Learned counsel for the respondents oppose the aforesaid submissions made on behalf of the appellant-State.

8. After hearing learned counsel for the parties as well as perusing the record of the case, this Court finds that the learned courts below disbelieved the story of the prosecution beyond doubt, while assigning proper reasons and findings therefor; including that the prosecution failed to prove, beyond doubt, by adducing proper evidence as to which party were the aggressors in the alleged incident, inconsistencies in the depositions made by the prosecution witnesses and the contrary medical evidence. Moreover, the factum of cross case between the parties is also discernible from the record, which further strengthens the finding of the learned courts below regarding failure of the prosecution to prove as to who were the aggressors in the present case. Thus, in the opinion of this Court, there is no illegality or perversity in the impugned orders passed by the learned courts below, particularly when the same were passed while assigning cogent reasons and findings, after duly appreciating the material available on record.

9. In view of the above, this Court does not find any reason so as to make any interference in the well reasoned and considered orders passed by the learned courts below.

10. Consequently, the present appeals are dismissed. All pending applications stand disposed of. Record of the learned court below be sent back forthwith.