

(2014) 05 RAJ CK 0234

In the Rajasthan High Court

Case No : Criminal Leave to Appeal No. 160/2013

State of Rajasthan

APPELLANT

Vs

Rama Ram

RESPONDENT

Date of Decision : 28-05-2014

Acts Referred:

Limitation Act, 1963 — Section 5

Penal Code, 1860 (IPC) — Section 120-B, 302, 34

Citation : (2014) 05 RAJ CK 0234

Hon'ble Judges : Govind Mathur, J; Atul Kumar Jain, J

Bench : Division Bench

Advocate : Vishnu Kachchhawaha, Public Prosecutor, Advocate for the Appellant

Final Decision : Dismissed

Judgement

1. This application is preferred to have leave to appeal the judgment dated 15.04.2013 passed by learned Additional Sessions Judge, Bali, District Pali acquitting the accused persons from the charge relating to offences punishable under Sections 302/34 and 120-B IPC. The appeal is barred by limitation from 73 days. An application is also preferred as per the provisions of Section 5 of the Limitation Act seeking condonation of delay in filing the application.

2. While examining the application preferred u/s 5 of the Limitation Act, we have also looked into merits of the case. The prosecution case is solely based on the evidence of last seen as adduced by P.W. 21 Sawa Ram and the evidence adduced by P.W. 5 Mansha Ram. P.W. 21 Sawa Ram stated that on the fateful day at about 10.00 p.m., he saw the accused persons sitting with the deceased near Barjodi Hill. This witness accepted that there was no light near Barjodi Hill and at the relevant time, it was dark. This witness also accepted that he was not knowing accused Rama Ram earlier. P.W. 5 Mansha Ram stated that Rama Ram gave a sum of Rs. 30,000/- to the accused persons to cause murder of Hindu Ram, however, no foundation for such statement is laid down by this witness. The trial court did not find these witnesses trustworthy.

3. We have also examined the statement made by the prosecution witnesses aforesaid. So far as P.W. 21 Sawa Ram is concerned, it is the position admitted that he was not knowing the accused persons and he saw 3 persons sitting near Barjodi Hill, where no light was available, as such, the trial court rightly arrived at the conclusion that this witness is neither trustworthy nor by relying upon the evidence adduced by him, any conviction could have been recorded. Same is the position with regard to other witness Mansha Ram (P.W. 5). The statement given by P.W. 5 on its face is quite vague and the evidence adduced by him is not at all sufficient to record the conviction, as such, we do not find any wrong with the findings arrived by the trial court.

4. Accordingly, the application u/s 5 of the Limitation Act as well as the application seeking leave to appeal are dismissed.