
(1987) 03 RAJ CK 0091
In the Rajasthan High Court
Case No : Criminal Appeal No. 968 of 1976

State of Rajasthan

APPELLANT

Vs

Satnam Singh

RESPONDENT

Date of Decision : 04-03-1987

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 394

Citation : (1987) WLN 313

Hon'ble Judges : Shyam Sunder Byas, J;A.K. Mathur, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Ashok Kumar Mathur, J.—This is a State appeal against the acquittal of the accused respondent under Sections 302 and 394 IPC by the learned Sessions Judge, Sri Ganganagar vide his judgment dated 26-4-1967.

2. The facts giving rise to this case are that a FIR was filed by Hirasingh, grand father of the accused Satnamsingh to the effect that on 11-12-1974 Satnamsingh came at about 10 p.m. and he knocked the door but he was in a drunken condition, therefore, he did not open the door. But his grand-son Shersingh opened the door and brought Satnamsingh in the house. Satnamsingh slept in the night but he did not get up in the morning at usual. Therefore he went to the place of sleeping and removed his quilt. On removing his quilt he found that his payjama and shirt were blood stained. He also called his son Jogendrasingh & thereafter both of them asked Satnam Singh as to how his clothes were blood stained. Satnamsingh told them that he and one Ramchander S/o Banwarilal Jat had a quarrel with that person. He informed them that both of them have murdered that person and snatched Rs. 800/- from him. Ramchander another co-accused was called and he was asked about the incident. He also admitted the same. Thereafter a First Information was filed. The police reached on the scene of occurrence where the dead body was lying. During the course of investigation, the police prepared the site plan, site inspection memo, Panchana

and the police seized two bricks from the scene of occurrence and effected necessary recoveries. The dead body of the deceased was seized and sent for post mortem. The accused Ram Chander became an approver and thereafter the case was committed to the court of Sessions for trial. But during the trial, the approver changed his statement and denied his earlier version and wanted to exculpate himself and the part played by him. The learned Sessions Judge after due trial came to the conclusion that the testimony of such approver cannot be acted upon and as a result of which he acquitted the accused appellant Aggrieved against this the State has preferred the present appeal before this court.

3. We have heard learned Public Prosecutor as well as the learned counsel for the accused respondent. We have also gone through the judgment and the necessary record. We are of the opinion that the learned Sessions Judge has rightly not acted upon the testimony of such an approver who has changed his earlier version. It is settled proposition of law that the testimony of approver is a very weak kind of evidence but if it is proved that he has disclosed the whole facts incriminating himself also then there is no harm in acting upon such testimony of the approver. But if he changes his version and tries to save his own skin then it is not safe to act upon the testimony of such witness. In the present case, the learned Sessions Judge has found that he is not a credible witness because he has changed his earlier version and completely denied his involvement. Thus, the learned Sessions Judge disbelieved his testimony and acquitted the accused. We are of the opinion that having regard to the testimony of such approver, the learned Sessions Judge has rightly disbelieved him and acquitted the accused.

4. Thus, we do not find any merit in this appeal and the same is dismissed.