
(2013) 09 MP CK 0213

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 6495 of 2011

The State of Madhya Pradesh

APPELLANT

Vs

Dul Singh and Others

RESPONDENT

Date of Decision : 11-09-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378(3)
Penal Code, 1860 (IPC) — Section 302, 34

Citation : (2013) 09 MP CK 0213

Hon'ble Judges : Shantanu Kemkar, J; M.C. Garg, J

Bench : Division Bench

Advocate : Amit Vyas, for the Appellant; Rajesh Chouhan, learned counsel, for the Respondent

Judgement

1. Heard learned counsel for the parties on IA No. 5277/2011, an application filed seeking condonation of delay in filing the appeal. The delay is of 114 days.
2. We find that the same has been satisfactorily explained. Therefore, delay in filing the accompanied appeal is condoned.
3. Heard learned counsel for the parties on admission of the miscellaneous criminal case, a petition seeking leave to appeal u/s 378(3) of the Code of Criminal Procedure against the judgment of acquittal dated 19.01.2011 passed by the Special Judge, Barwani in Sessions Case No. 108/2010.
4. The respondents have been acquitted by the trial Court for the alleged offence punishable u/s 302 read with Section 34 of the Indian Penal Code for committing murder of Gasa S/o. Shobharam.
5. After appreciation of the evidence, the trial Court found that there is no direct evidence against the respondents. The evidence of last seen together of the respondents with the deceased was found to be not reliable as the witnesses of last seen in their statement before the Court for the first time stated that the deceased was last seen with the respondents. Ekka (PW-2), who lodged the

report, in his cross-examination has stated that while lodging first information report, he did not mention that the deceased was last seen with the respondents. The trial Court also found that the witnesses of the seizure were turned hostile and there was contradiction between the FSL report and the statement of the Investigating Officer. Having dealt with the evidence on record elaborately, the trial Court took a view that in view of the contradictions, omissions and in the absence of their being a complete chain of circumstantial evidence to connect the respondents with the alleged offence, the respondents cannot be convicted. Having held so, the trial Court recorded the finding of acquittal in favour of the respondents.

6. We find that the view taken by the trial Court is proper and is based upon correct appreciation of evidence. No ground is made out to take a difference view.

7. Accordingly, leave to appeal against the impugned judgment of acquittal is refused. The miscellaneous criminal case stands dismissed.