

(2017) 06 RAJ CK 0036
In the Rajasthan High Court
Case No : 33 of 1994

The State of Rajasthan

APPELLANT

Vs

Sumer Singh son of Sangram

RESPONDENT

Date of Decision : 08-06-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 313](#) - Power to examine the accused
[Indian Penal Code, 1860](#), [Section 147](#),
[Section 307](#), [Section 148](#) & [Section 149](#) of IPC

Citation : (2017) 06 RAJ CK 0036

Hon'ble Judges : Vijay Bishnoi

Bench : SINGLE BENCH

Advocate : Arjun Singh Rathore

Final Decision : Dismissed

Judgement

1. This criminal appeal has been preferred on behalf of the appellant - State being aggrieved with the judgment dated 9.7.1993 passed by the Sessions Judge, Pali (for short "the trial court") in Sessions Case No.6/1981, whereby the trial court has acquitted the accused respondents for the offences punishable under Sections 436, 307, 147, 148, 149 / 454 IPC.
2. Brief facts of the case are that on 21.5.1979, Chiranji Lal (PW-6) has lodged a report at the Police Station Pali alleging that one labour namely Kumbha Ram, who was working in his factory has died in an accident by falling in the water tank on 16.5.1979. Kumbha Ram was taken to the hospital, but he became dead.

Thereafter on 20.5.1979, in the morning, labourers of the factory gathered in the factory premises led by Sawai Singh, Chuni Lal, Kailash Arora, Sumer Singh, Tikma Ram and others had raised slogans that the killers be hanged and the factory be put to fire. It is alleged that around 150-200 laborers in the leadership of the above named persons came out of the factory and took out a procession and got the factories closed forcibly and thereafter had given a representation to the District Collector regarding the death of labour Kumbha Ram.

3. It is further alleged by the complainant that today in the morning all the above named persons along with 150-200 persons had again took out a procession and got the factories closed forcibly and again went to the District Collector's office and thereafter the said procession reached in the industrial area No.2, where in the leadership of Sawai Singh and Chhuni Lal had forcibly entered in to the factory premises and destroyed the property and threw stones and had also lit fire in his factory. The employees of the factory namely Magraj and Shyam ran away from there, however, several properties of the factory have been destroyed in the fire and if the employees would not ran away from there, then, they could have been died in the fire.

4. On receiving this report, the Police Station Pali has registered an FIR No.131/1979 for the offences punishable under Sections 147, 148, 149, 436 and 307 IPC and started investigation. After investigation, the police has filed charge-sheet against the accused respondents and the trial court has framed charges against them for the offences punishable under Sections 147, 148, 454, 436, 149, 307 / 149 IPC.

5. To prove the charges against the accused respondents, the prosecution has produced as many as 17 witnesses and has got

exhibited several documents. The statements of the accused respondents were recorded under Section 313 Cr.P.C., however, no evidence was produced in defence.

6. The trial court has observed that only three witnesses namely Magraj (PW-16), Umar (PW-13) and Shyam Sunder (PW-2) have supported the prosecution story, whereas, the other prosecution witnesses have not supported the prosecution story and turned hostile.

7. The trial court has discussed the evidence of Magraj (PW-16), Umar (PW-13) and Shyam Sunder (PW-2) in detail and held that the said prosecution witnesses has named Chhuni Lal, Sawai Singh and Bhagirath only and have not specified the role of other accused persons. The trial court has also taken into consideration the contradictions in the statements of the witnesses, who have supported the prosecution story and found that there are severe contradictions in their statements and the evidence of the said witnesses is not corroborative with each other. It is also observed by the trial court that during the course of investigation, the police has not conducted the test identification parade of any of the accused by the alleged eye witnesses and, therefore, it cannot be said that the prosecution has proved that the accused respondents had committed the offence, for which, they have been charged. The trial court has also observed that the prosecution has failed to produce the I.O. in evidence and the accused respondents had no occasion to cross examine him and this lacunae on the part of the prosecution is fatal. The trial court has also taken into consideration the contradictions in the court as well as police statements of the prosecution witnesses and held that the said evidence of those witnesses, who have supported the prosecution story cannot be

relied upon.

8. Having regard the overall facts and circumstances of the case, this Court is of the opinion that the prosecution has failed to prove the charges against the accused respondents, for which, they have been charged beyond reasonable doubt and, therefore, the trial court has not committed any illegality in acquitting the accused respondents from the charges levelled against them.

9. Resultantly, this criminal appeal being bereft of force is hereby dismissed.