

0)1
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO(S).2224/2009
HARI DAS

Appellant(s)

VERSUS

STATE OF MAHARASHTRA
WITH

Respondent(s)

CRIMINAL APPEAL NO(S).851-852/2016
(Arising out of SLP(Crl) Nos. 3249-3250/2011)
O R D E R

Leave granted in SLP(Crl) Nos. 3249-3250/2011.

As many as seven accused persons were tried for various offences alleged against them and, in particular, offence of murder of Nana and Raosaheb. After trial, the Sessions Court convicted accused nos. 1 to 5 for the offence punishable under Sections 302 read with Section 149 of the Indian Penal Code (IPC) for causing murder of Nana and each of them was sentenced to suffer rigorous imprisonment for life and also to pay a fine of Rs. 1,000/- with default clause that in the event of non-payment of fine, there would be rigorous imprisonment for three months. They were also convicted for the offence under Section 302 read with Section 149 of the IPC for causing murder of Raosaheb and similar sentence was awarded which was given for the murder of Nana. The conviction was also recorded for the offence punishable under Section Section 324

2
read with Section 149 of the IPC for causing grievous hurts to certain other persons. Accused Nos. 1, 3 and 4 were further convicted for the offence punishable under Section 148 of the IPC. Accused Nos. 1 to 5 were acquitted of the rest of the charges. Insofar as accused nos. 6 and 7 were concerned, they were acquitted of all the charges. It appears that all the accused persons filed appeals challenging their conviction, as aforesaid, awarded by the Sessions Court. These appeals have been dismissed by the High Court vide judgment and order dated 16.12.2004. The validity of this judgment is the subject matter of these appeals which are preferred by accused nos. 1 to 5 namely Pandya @ Pandit (A-1), Bhagaji (A-2) Ashok (A-3), Krishna (A-4) and Hari Das (A-5). We have heard learned counsel for the parties and have also perused the impugned judgment of the High Court.

It transpires that the conviction is primarily recorded on the basis of the testimonies of three eye-witnesses namely Vijubai Raosaheb Jadhav (PW-3), Sanjay Bhaurao Jadhav (PW-5) and Gajanan Pandurang Jadhav (PW-7). All three eye-witnesses were injured as they had also sustained injuries when the two deceased persons were attacked by the accused persons. Apart from the post-mortem of the deceased persons, these injured witnesses were also medically examined by the Government doctors. The post-mortem of the deceased persons as well as the MLCs of these three injured witnesses were proved by producing the evidence of the doctors who examined them.

3
The Court after detailed and incised examination of these three eye-witnesses came to the conclusion that their testimonies were credible and worthy of acceptance. The High Court, re-appreciated the evidence and came to the same conclusion thereby affirming the findings of the Sessions Court. Nothing could be brought before us as well, during arguments, which could shake the credibility of the testimonies of these witnesses. We are, therefore, of the opinion that these appeals lack merit and deserve to be dismissed. Ordered accordingly.

.....J.
[A.K. SIKRI]

.....J.
[S.A. BOBDE]

.....J.
[ASHOK BHUSHAN]

NEW DELHI;

SEPTEMBER 01, 2016.

4

ITEM NO.103

COURT NO.11

SECTION IIA

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Criminal Appeal No(s). 2224/2009

HARI DAS

Appellant(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(with office report)

WITH

SLP(Crl) No. 3249-3250/2011

Office Report)

Date : 01/09/2016 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE S.A. BOBDE

HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Appellant(s) Dr. (MRS.) Vipin Gupta,Adv.

Mr. K. V. Sreekumar,Adv.

For Respondent(s) Mr. Sushil Karanjkar, Adv.

Mr. Nishant Ramakantrao Katneshwarkar,Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted in SLP(Crl) No. 3249-3250/2011.

The appeals are dismissed in terms of the signed order.

Application pending, if any, shall stand disposed of accordingly.

(Ashwani Thakur) (Tapan Kr. Chakraborty)

COURT MASTER

COURT MASTER