



NON-REPORTABLE
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO(S). 575 OF 2014

**STATE OF MADHYA
PRADESH**

....APPELLANT(S)

VERSUS

RAMVEER SINGH

....RESPONDENT(S)

J U D G M E N T

1. Heard.

2. This appeal has been preferred by the State of Madhya Pradesh¹ for assailing the judgment dated 22nd June, 2010, passed by the Division Bench of the High Court of Madhya Pradesh at Gwalior² in Criminal Appeal No. 465 of 2005 whereby, the High Court accepted the appeal preferred by the accused-respondent i.e., Ramveer Singh³ under Section 374(2)

¹ Hereinafter, referred to as “appellant-State”.

² Hereinafter, referred to as “High Court”.

³ Hereinafter, referred to as “accused-respondent”.

of the Code of Criminal Procedure, 1973⁴ and set aside the judgment dated 8th July, 2005 passed by the learned Special Judge (Atrocities) and Additional Sessions Judge, Morena⁵ in Special Case No. 159 of 2003. *Vide* judgment of conviction and order of sentence dated 8th July, 2005, the trial Court had convicted the accused-respondent for the offences punishable under Sections 449 and 302 of the Indian Penal Code, 1860⁶ and sentenced him to suffer imprisonment as below: -

<u>Sections</u>	<u>Sentence Awarded</u>
449 IPC	<u>Rigorous imprisonment for 10 years</u> along with fine of Rs. 1,000/- and in default to undergo 3 months additional imprisonment.
302 IPC	<u>Life imprisonment</u> along with fine of Rs. 1,000/- and in default to undergo 3 months additional imprisonment.

⁴ For short, 'CrPC'.

⁵ Hereinafter, referred to as "trial Court".

⁶ For short, 'IPC'.

3. As noted above, the High Court in appeal reversed the judgment rendered by the trial Court and acquitted the accused-respondent of the charges levelled against him. The appellant-State has filed the present appeal with special leave for assailing the acquittal of the accused-respondent as recorded by the High Court.

4. We have heard and considered the submissions advanced by Shri Padmesh Mishra, learned counsel representing the appellant-State and have gone through the impugned judgment as well as the judgment rendered by the trial Court and so also the records of the case.

5. Briefly stated, the case of the prosecution is that on 10th March, 2003, a *dehati nalishi* (Ex. P-7) was recorded by ASI Janved Singh (PW-6) based on the statement of Poona Bai (PW-10) alleging *inter alia* that at about 4:00 pm, on the same day the accused-

respondent forced his way into their house carrying a container having kerosene oil in it. He poured the kerosene on the body of her grand-daughter Badami Bai⁷ and set her on fire with an intention of killing her. On seeing the attack, the witness (PW-10) started screaming and, as a result thereof, the accused-respondent fled away from the place of occurrence. On hearing the fervent cries of the informant, the neighbours and other family members assembled in the house.

6. It was further alleged that 12 days prior to the incident, Raju, son of the accused-respondent, had committed rape upon the victim and the matter was reported to the police by Ramveer Singh, son of Poona Bai (PW-10). Bearing this grudge in his mind, the accused-respondent had set the victim to fire. Based

⁷ Hereinafter, referred to as “victim” or “deceased-victim”.

on the said statement of Poona Bai (PW-10), an FIR⁸ came to be registered against the accused-respondent at Police Station Dimni, Morena for the offences punishable under Sections 307 and 450 of IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989⁹.

7. The victim who was barely alive, was taken to the District Hospital, Morena for treatment. The prosecution claims that the dying declaration (Ex. P-13) of victim was recorded by the Executive Magistrate/Naib Tehsildar, Anil Singh Raghav (PW-8)¹⁰ at the hospital. The victim succumbed to the burn injuries at about 8:30 pm, upon which, Section 302 of IPC was added to the case.

⁸ Crime No. 28 of 2003.

⁹ For short, "SC/ST Act".

¹⁰ Hereinafter, referred to as "Naib Tehsildar (PW-8)".

8. The accused-respondent was arrested, and after investigation, a chargesheet was filed against him in the Court of Judicial Magistrate First Class, Ambah, who committed the case to the Court of Sessions from where it was made over to the Special Court for trial. Charges were framed against the accused-respondent for the offences punishable under Sections 302 and 449 of IPC and Section 3(2)(v) of SC/ST Act. He abjured his guilt and claimed trial. The trial Court recorded the evidence of the prosecution witnesses and questioned the accused-respondent under Section 313 CrPC. The accused-respondent denied the prosecution allegations and claimed to be innocent. Upon hearing the arguments advanced by learned Public Prosecutor and the defence, and after evaluation of the evidence on record, the trial Court held the accused-respondent guilty for the offences punishable under Sections 449

and 302 of IPC *vide* judgment dated 8th July, 2005. However, the accused-respondent was acquitted of the charge framed under Section 3(2)(v) of SC/ST Act.

9. It is pertinent to note that the trial Court in its judgement, recorded pertinent findings at Para 34 to 38, doubting the presence of Poona Bai (PW-10) at the place of incident and discarded her claim of being an eye-witness and having seen the accused-respondent setting the deceased-victim to fire. The High Court affirmed the aforesaid finding of the trial Court that Poona Bai (PW-10) did not witness the incident.

10. Apart from the evidence of the so-called eye-witness, Poona Bai (PW-10) who has been disbelieved by both the Courts below, the prosecution heavily placed reliance on the oral and written dying declarations of the deceased-victim to show that the prosecution succeeded in bringing home the charges.

The High Court, while deciding the appeal against conviction, discussed the evidence of Naib Tehsildar (PW-8) who admitted in his cross-examination that at the time of tendering the dying declaration, the victim was conscious and was able to answer the questions, but her voice was very feeble and not clear at all.

11. The High Court also noted that Dr. A.K. Gupta (PW-13) who was present at the time of recording of the alleged dying declaration (Ex. P-13) and made an endorsement on the same to the effect that the victim was conscious and was able to answer the questions put to her, admitted in his testimony that he had recorded the said endorsement after the dying declaration had been recorded. Furthermore, both Naib Tehsildar (PW-8) and Dr. A.K. Gupta (PW-13) admitted in their evidence that they found it difficult to decipher the dialect in which the injured victim spoke. The victim was able to speak very feebly, and

the witness (PW-8) had to bend down in order to grasp whatever she was trying to say.

12. The High Court doubted the dying declaration on considering the admissions as appearing in the evidence of Mango Bai (PW-12), who stated that when the dying declaration was being recorded, she and her mother-in-law i.e., Poona Bai (PW-10) were present there and they told the concerned officer on behalf of the victim as to how the incident had taken place.

13. The High Court also found that the timing of requisition issued by the Investigating Officer for recording the dying declaration was doubtful. It was observed that the victim had been admitted in the hospital at 7:25 pm. Thereafter, the *dehati nalishi* was recorded at the instance of Poona Bai (PW-10) and the victim ultimately succumbed to death at 8:30

pm which made the entire sequence in which the dying declaration was recorded, difficult to believe.

14. The High Court further noted that the victim was having 100% burns and Dr. A.K. Gupta (PW-13) admitted that the general condition of the victim was extremely poor. It was further admitted by the Doctor that when the dying declaration was being recorded, neither the pulse nor the blood pressure of the victim were measurable which convinced the High Court that it was totally unsafe to rely on the dying declaration.

15. The High Court also noted that so far as the theory of oral dying declaration was concerned, the same became questionable considering the fact that there was no reference to any oral dying declaration in the *dehati nalishi* lodged by Poona Bai (PW-10). This omission was treated to be creating a doubt on the prosecution case.

16. Taking into account the overall impact of the contradictions and inherent improbabilities appearing in the prosecution evidence, the High Court held that the dying declaration was not free from doubt and hence, it would be hazardous to place reliance on the same for convicting the accused-respondent.

17. We are in full agreement with the aforesaid observations and findings of the High Court and are of the firm view that the circumstances surrounding the recording of the dying declaration create a grave doubt making the said evidence unworthy of credence. On a perusal of the testimony of Dr. A.K. Gupta (PW-13), we are convinced that the victim was in such a precarious physical condition that it would have been virtually impossible for her to have narrated the story in the manner claimed by the prosecution. It may be noted that the Doctor

admitted that neither the pulse nor the blood pressure of the victim were recordable. The Naib Tehsildar (PW-8) admitted that the victim's voice was barely audible when he was trying to record the dying declaration (Ex. P-13). Thus, the very factum of recording of the dying declaration (Ex. P-13) comes under a grave doubt making it totally unreliable.

18. The High Court also found that the complainant Poona Bai (PW-10) being the author of *dehati nalishi* admitted that there were several persons having the name Ramveer and hence, there was a serious doubt as to whether accused-respondent was the same Ramveer who had set the deceased-victim on fire and whose name was mentioned in the dying declaration.

19. The High Court further found that as per the evidence of Poona Bai (PW-10) even before she gave the *dehati nalishi*, an earlier report had been taken from her by the police at the village which was not

brought on record and had been suppressed by the prosecution.

20. Considering all these facts cumulatively, the High Court felt it unsafe to place reliance upon the *dehati nalishi* (Ex. P-7) and dying declaration (Ex. P-13) which essentially formed the bulwark of the entire prosecution case. Since no other evidence was led by the prosecution to connect the accused-respondent with the crime, the High Court went on to allow the appeal *vide* judgment dated 22nd June, 2010, thereby, acquitting him of the charges levelled.

21. We may note that the present appeal is one against acquittal. Law is well-settled by a plethora of judgments of this Court that in an appeal against acquittal unless the finding of acquittal is perverse on the face of the record and the only possible view based on the evidence is consistent with the guilt of the accused only in such an event, should the

appellate Court interfere with a judgment of acquittal. Where two views are possible i.e., one consistent with the acquittal and the other holding the accused guilty, the appellate Court should refuse to interfere with the judgment of acquittal. Reference in this regard may be made to the judgments of this Court in the cases of ***Babu Sahebagouda Rudragoudar & Ors. v. State of Karnataka***¹¹; ***H.D. Sundara & Ors. v. State of Karnataka***¹² and ***Rajesh Prasad v. State of Bihar and Anr.***¹³.

22. In view of the facts and circumstances noted above, we are convinced that the present is not a case wherein it can be said that no view other than the guilt of the accused-respondent is possible. The prosecution case is full of material contradictions and inherent improbabilities and there do not exist any

¹¹ (2024) 8 SCC 149.

¹² (2023) 9 SCC 581.

¹³ (2022) 3 SCC 471.

valid or substantial reasons to interfere with the acquittal of the respondent as recorded by the High Court. The impugned judgment dated 22nd June, 2010, does not suffer from any error or infirmity warranting interference. Hence, the appeal lacks merit, and is dismissed as such.

23. Pending application(s), if any, shall stand disposed of.

.....J.
(ARAVIND KUMAR)

.....J.
(SANDEEP MEHTA)

**NEW DELHI;
JULY 30, 2025.**