

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.591/2014

SAWAI RAM

Appellant(s)

VERSUS

THE STATE OF RAJASTHAN

Respondent(s)

O R D E R

We have heard the learned counsel appearing for the parties.

The appellant was convicted by the Trial Court for the offence punishable under Section 302 of the Indian Penal Code, 1860 (for short, 'the IPC') which has been confirmed by the High Court vide the impugned order. The appellant seeks to overturn the same on multiple grounds.

The case as it turned out from the First Information Report (for short, 'the FIR') given by PW-3, is that on the date of occurrence i.e. 30.04.2003, seven accused persons inclusive of the

appellant herein, due to a prior enmity between the deceased and one Nathuram over a Gaushala, came to the place of occurrence and indiscriminately attacked the deceased resulting in multiple injuries leading to his death. Several exhibits have been marked by the prosecution. Witnesses have also been examined on both sides. We take note of the fact that notwithstanding the statement made by the eye-witnesses, only the appellant was charge-sheeted and six others including Nathuram have not been charge-sheeted.

Strangely, the original motive that the appellant had committed the offence due to the Gaushala dispute between the deceased and Nathuram, was in fact retained. Any connection between the appellant and the said Nathuram and the reason for committing the offence by the appellant, has not been indicated in the charge-sheet. We also find that independent witnesses have not been examined and both the Courts have relied on the evidence of the official witnesses for believing the recovery of the weapon.

DW-1 who deposed on behalf of the appellant has stated that the strained relationship between the appellant on the one hand and the deceased on the other, was with respect to the molestation of the appellant's sister by the deceased. We may note that

the evidence of DW-1 was not believed by the Courts. During cross-examination, PW-10 being the Investigating Officer, has admitted that his investigation also revealed that the appellant's sister had been molested by the deceased, and that the wife of Nathuram was the *Sarpanch* of the village.

We further find that PW-3 in his evidence has totally obliterated from his earliest version in the FIR and implicated the appellant alone. Even in the statements recorded under Section 161 of the Code of Criminal Procedure, 1973, the witnesses including PW-3 have spoken about the presence of other accused persons. We have also perused the *post-mortem* report. The report suggests multiple injuries, both incised wounds and abrasions. In other words, the injuries are both external and internal in nature. Therefore, the possibility of several persons having attacked the deceased is not ruled out.

In our considered view, PW-10 has conducted the investigation in order to protect some of the accused. To put it differently, the investigation is neither proper nor fair. Such a tainted investigation shall not be the basis for conviction when the motive upon which the conviction has been rendered was not even put forth by the prosecution. If PW-10 was aware of the prior motive qua the appellant, the same should have been reflected in

the charge-sheet. Even assuming it is true, it cannot be a factor to suppress the real motive that led to the attack on the deceased by several persons.

Suffice it is to state that the Courts below ought not to have convicted the appellant when the case of the prosecution itself is otherwise. We are conscious of the fact that, to convict an accused and that too for the offence punishable under Section 302 of the IPC, motive is not the sole factor. However, on facts, we find that a case of collective attack has been converted into one committed by a single accused, probably with an intention to safeguard others. This is not only a case where witnesses have resiled from their stand, but also where the Court while disbelieving the case of the prosecution, has nonetheless convicted the appellant on the basis of the statement given for a different purpose by a witness produced on behalf of the appellant, whose testimony has otherwise been discarded.

In light of the above discussion, we are inclined to hold that the prosecution has not proved its case beyond reasonable doubt.

Accordingly, the conviction rendered by the Trial Court as confirmed by the High Court, stands set aside and the appellant is acquitted.

The appeal stands allowed, accordingly.

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

.....J.
[M.M. SUNDRESH]

.....J.
[JOYMALYA BAGCHI]

NEW DELHI;
AUGUST 06, 2025.

ITEM NO.115

COURT NO.5

SECTION II-D

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

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Date : 06-08-2025 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE JOYMALYA BAGCHI

For Appellant(s) Mr. Anirudh Singh, Adv.
Mr. Abhijeet Singh, Adv.
Ms. Chitrangda Rastravara, Adv.
Mr. Dhananjai Shekhwat, Adv.
Mr. Aishwary Mishra, Adv.
Ms. Anjali Saxena, Adv.
Mr. Dashrath Singh, Adv.
Ms. Sakshi Aggarwal, Adv.
Mr. Gp. Capt. Karan Singh Bhati, AOR

For Respondent(s) Mr. Milind Kumar, AOR

UPON hearing the counsel the Court made the following
O R D E RThe appeal stands allowed in terms of the
signed order.Pending application(s), if any, shall stand
disposed of.(ASHA SUNDRIYAL)
DEPUTY REGISTRAR(POONAM VAID)
ASSISTANT REGISTRAR

[signed order is placed on the file]