

Sitaram And Ors. vs State Of M.P. on 6 March, 1979

Equivalent citations: 1979CRILJ1028, (1979)3SCC644, 1980SUPP(1)SCC338

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Bench: A.D. Koshal, S. Murtaza Fazal Ali

JUDGMENT

S. Murtaza Fazal Ali, J.

1. In these two appeals by special leave, the appellants, except Sita Ram who has been wrongly included as one of the appellants, have been convicted under Sections 302/149 and 302/34 and some of them have been sentenced to imprisonment for life and others to various terms of imprisonment under different Sections of I.P.C. It is not necessary to give the necessary particulars in the view that we take in this case. The prosecution case has been detailed in the judgment of the High Court and the Sessions Judge. We have gone through the judgment of the Sessions Judge; and the High Court and we do not find any error of law in the judgment of the High Court Mr. Gupta appearing for the appellants, submitted that the occurrence was the result of a fight between two factions and it was contended that all the members of one family have been implicated due to previous enmity. In order to fortify his argument, counsel for the appellants relies on the report given by one Babu Kotwar which appears to be at page 1349 of the paper book. This report shows that one Babu Kotwar of Bhandaria appeared at the police station and reported that a quarrel was going on between Deshwalis and Bharuds in the village, Bhandaria. The report does not show that Babu Kotwar was an eyewitness who had himself seen the occurrence, nor does his report disclose any cognisable offence nor does the informant mention as to whether he had identified any of the accused nor does he disclose the circumstances in which the occurrence took place. Under these circumstances, therefore, Babu Kotwar was not at all a material witness. It was, however, argued by Mr. Gupta that this witness was cited in the chargesheet as a prosecution witness but was given up later. That by itself would not show that he is a material witness. The information which he gave does not at all show that his evidence was necessary for the unfolding of the prosecution narrative.

2. It was then contended that all the eight witnesses examined by the prosecution are interested and inimical and therefore no reliance should be placed on them. Both the courts below while accepting the testimony of these witnesses were fully alive to these infirmities but have chosen to accept their statements by holding that the witnesses were reliable. Moreover, it appears that the evidence of these witnesses was corroborated by P.Ws. 11, 13 and 39. This Court in special leave would not reappraise the evidence for itself unless a clear error of law in the appreciation of the evidence is found. No other point was argued before us although, some reference is made to certain questions of fact which this Court does not entertain in appeal by special leave. We are extremely grateful to Mr.

Gupta who has been of great assistance to us in deciding this case and has tried his best to support the case of the appellants, but in view of the findings of facts arrived at by the two courts below, we are unable to interfere. For these reasons, therefore, we do not find any error in the judgment of the High Court or any merit in this appeal. The appeals are accordingly dismissed.