

Shakti Patra And Anr. vs State Of West Bengal on 25 March, 1981

Equivalent citations: AIR1981SC1217, 1981CRILJ645, 1981(1)SCALE837A, 1981(SUPP)SCC24, 1981(13)UJ269(SC), AIR 1981 SUPREME COURT 1217, 1981 SCC(CRI) 644 1981 UJ (SC) 269, 1981 UJ (SC) 269

Bench: A. Varadarajan, Baharul Islam, S. Murtaza Fazal Ali

JUDGMENT

1. This appeal by special leave is directed against the judgment of the Calcutta High Court affirming the conviction of the appellants under Sections 148 and 307/149, Indian Penal Code. The appellants were convicted under Sections 307/149 and sentenced to rigorous imprisonment for six years each and on the charge under Section 148 were sentenced to rigorous imprisonment for one year.

2. We have heard counsel for the parties and have gone through the judgment of the High Court. Both the High Court and the trial court have concurrently found that Dakshaja Mondal (P.W. 1) and Girija Mondal (P.W. 2) had correctly identified the appellants in the light of the torch held by P.W. 1. The evidence of these two witnesses is corroborated by the evidence of witnesses P.Ws. 3, 4 and 5 to whom the witnesses disclosed the names of the appellants.

3. The only point argued before us is that as there is no mention of the torch-light in the F.I.R. or in the statements of the witnesses before the Police, the presence of torch was not proved, hence it would not have been possible to identify the appellants. Even if this omission is there it loses its significance in view of the direct testimony of P.Ws. 3, 4 and 7 who state that when they reached the spot they found the torch burning which clearly shows that the version of P.W. 1 that he had a torch with him in the light of which he had identified the appellants is correct.

4. We therefore see no merit in the contention of the counsel for the appellants and dismiss the appeal. The bail of the appellants is cancelled and they are directed to be taken into custody to serve out the remaining portion of their sentence.