

Gulab Singh vs The State on 8 January, 1952

Equivalent citations: 1953CRILJ730

ORDER

Chowdhry, J.C.

1. Gulab Singh, a Sub-Inspector of Police at the material time, was charged with, but acquitted of, offences punishable under Sections 161 and 384, I.P.C. by a first class Magistrate of Bilaspur. A river-range officer, Sardar Kirpal Singh by name, was also a co-accused, and he too was acquitted. The learned Magistrate used the expression honorable acquittal while acquitting the river-range officer of both the offences and Gulab Singh of that under Section 384, I.P.C. but in acquitting the latter of the offence under Section 161, I.P.C. he stated that he was given the benefit of doubt. I am told that Gulab Singh has since retired and the question of his pension is under consideration, and that as he apprehends that the language used by the Magistrate in acquitting him of the charge under Section 161, I.P.C. might prejudice his right to pension he went up in revision to the Sessions Judge. The learned Sessions Judge has examined the judgment of the learned Magistrate and the entire evidence produced in the case and come to the conclusion that, once the prosecution evidence against Gulab Singh had been disbelieved by the Magistrate, there should have been a clear acquittal and not an acquittal based on doubt. He has, therefore, recommended that Gulab Singh should be acquitted honorably.

2. There is no such thing as an honourable, acquittal within the provisions of the Criminal Procedure Code, although there may conceivably be circumstances in a particular case which might justify the use of that expression. Anyway, so far as the present case is concerned, a clear acquittal of Gulab Singh, if it were otherwise justified, would have been sufficient. If a person is acquitted and there is no doubt with regard to his being entitled to that finding, there appears to be no reason why there should remain any blot on his character in connection with a charge for which he was prosecuted, I have, therefore, looked into the matter from that view-point. Irrespective of the question whether the pension of Gulab Singh is under consideration, for that is an extra-judicial matter, a person acquitted is entitled, if there should be a clear acquittal on the facts of the case, that the acquittal should not be described as being based on the accused having been given the benefit of doubt. I am further of the opinion that if any such injustice has been done to any party it should be remedied by this Court.

3. I agree with the view of the learned Sessions Judge that the prosecution having failed to prove every ingredient of the case against Gulab Singh, and the statements of prosecution witnesses not having been believed, there should have been no room for doubt with regard to the innocence of Gulab Singh.

4. In exercise of my inherent power, and to serve the ends of justice, I accept the reference made by the learned Sessions Judge and order that the following words be expunged from the judgment of the learned Magistrate: "He (Gulab Singh) is also given the benefit of doubt for the offence under

Section 161, I.P.C. and acquitted", and in place thereof the following sentence be substituted: "Gulab Singh is acquitted of the charge under Section 161, I.P.C."