Bhe Ram vs State Of Haryana on 29 March, 1979

Equivalent citations: AIR1980SC957, 1980CRILJ735, (1980)1SCC201, AIR 1980 SUPREME COURT 957, (1980) 6 SCJ 141, 1980 SCC(CRI) 206, (1980) 2 SCJ 141, (1980) MAD LJ(CRI) 572, 1980 (1) SCC 201

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Bench: Syed M. Fazal Ali, A.D. Koshal

JUDGMENT

S. Murtaza Fazal Ali, J.

1. In these two appeals the appellants have been convicted as follows:

Under Section 148 I.P.C.

Each of them sentenced to rigorous imprisonment for one year.

Under Section 302/149 I.P.C.

Each of them sentenced to imprisonment for life and to pay Rs. 500/- as fine and in default of payment of fine to further undergo rigorous imprisonment for six months. Under Section 435/149 I.P.C.

Each of them sentenced to rigorous imprisonment for two years.

325/149 I.P.C.

Each of them sentenced to rigorous imprisonment for one year.

323/149 I.P.C.

Each of them sentenced to rigorous imprisonment for six months.

All the sentences awarded to the appellants were ordered to run concurrently.

2. The prosecution case has been detailed in the judgment of the High Court and it is not necessary for us to repeat the same all over again. We have perused the judgment of the Sessions Judge and also that of the High Court and heard learned Counsel for appellants at great length. We do not find

any error of law or any error in the appreciation of the evidence by any of the Courts below. Mr. Sawhney appearing for the appellants in Crl. Appeal No. 253/74, and Mr. Gambhir in Criminal Appeal No. 252/74 for the appellant Bhe Ram, submitted two points before us. In the first place, it was argued that the High Court having rejected the essential details of prosecution case, the appellants also should have been acquitted. We have gone through the judgment of the High Court and we are not in a position to agree with the counsel that the High Court has disbelieved the essential details of the prosecution case. The High Court has merely pointed out that in view of the charge of rioting there may be some infirmities with respect to some of the accused persons who were entitled to the benefit of the doubt. The High Court has also rightly pointed out that the principle of falsus in uno falsus in omnibus does not apply to criminal trials and it is the duty of the Court to separate the grain from the chaff instead of rejecting the prosecution case on general grounds. We are of the opinion that the High Court has made an absolutely correct approach to these cases.

3. It was next contended that no explanation for serious injuries found on the person of the accused i. e. Sunda and Prabhati, has been given by the prosecution. The High Court has adverted to this aspect of the matter and has given a reasonable explanation for these injuries. In this connection, the High Court observed as follows:

> All the aforesaid eye-witnesses have stated that all the accused came armed with various weapons and Chandgi accused pulled pullas from a Chhappar and Surja ignited fire and they set their Chhappars to fire and then Jangli and Mool Chand deceased caused injuries to these two accused persons with Trenchie and Jalli respectively, which they had picked up from there and thereafter all the accused caused injuries to Jangli and Mool Chand, who died at the spot. In these circumstances, therefore, the prosecution case does not suffer from any infirmity. The High Court and the Sessions Judge have both rejected defence version.

4. Lastly, it was argued by Mr. Gambir that there is no overt act attributed to the appellants except a general statement that they took part in the beating of the deceased person. In a case of rioting under Section 149, it is not necessary that any specific act should be attributed. It is sufficient if it is proved that all the members of the unlawful assembly shared the common object of the said assembly which was undoubtedly to cause the murder of the two deceased. On this aspect, both the Courts below have given concurrent findings of fact that the case has been proved against the appellants. Apart from other wit nesses, there is no doubt that P.Ws. 3, 5 and 6 have named the appellants right from the police up to the Sessions Court and therefore there was absolutely no reason to distrust their evidence.

5. For these reasons, we are of the opinion that there is no merit in these appeal's which are accordingly dismissed.