Lakhanpal vs State Of Madhya Pradesh on 23 February, 1979

Equivalent citations: 1979CRILJ1217, (1979)3SCC256, 1980SUPP(1)SCC716, 1979(11)UJ889(SC), AIR 1979 SUPREME COURT 1620, 1979 UJ (SC) 889, 1979 CRILR(SC&MP) 715, 1979 SCC(CRI) 644, (1979) SC CR R 332, 1979 (3) SCC 256

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

ORDER

S. Murtaza Fazal Ali, J.

1. This appeal by Special Leave is directed against the judgment of the Madhya Pradesh High Court affirming the conviction of the appellant under Section 302 and the sentence of imprisonment for life.

2. A detailed narrative of the prosecution is to be found in the judgment of the High Court. It appears that the deceased Parsu was the own brother of the appellant and they were working in the field at about 4 pm. and thereafter the father and the mother came back to the house but the two brothers remained in the field. According to the prosecution, the appellant caused large number of injuries on (the deceased while he was in the field with him and then came to the house and informed his father that three persons had killed the deceased. The father lodged FIR on 16-10-1967 at 9.45 p.m. immediately after the incident where he mentioned these facts.

3. The entire evidence against the appellant consists of circumstantial evidence.The two circumstances relied upon by the courts below against the appellant are the following:

> 1. That the appellant was last seen with the deceased in the field after the parents of the appellant returned to the house.
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> 2. That soon after the occurrence when the appellant was returned to the house, he met PW Sukhlal and confessed before him that he had a quarrel with his brother and he had committed a mistake by killing him.

4. So far as the first circumstance is concerned in the facts of this particular case it is not sufficient to prove conclusively that the appellant committed the murder of the deceased. According to PW Bhagwandas, the father of the appellant the sowing was stopped at 4 O' clock in the evening. In the circumstances, therefore, if the appellant would have attacked the deceased he being a young of 17

years would have undoubtedly put up stiff resistance in order to protect himself and in all probability would have caused some injuries on the person of the appellant also.Fur those reasons,therefore, the mere fact that the appellant and the deceased were together in the field does not land to the irresistible inference that the appellant must have murdered the deceased.As regards the extra-judicial confession made by the appellant before Sukhlal, we are unable to believe the version given by the witness Sukhlal.While being examined as a witness in the Sessions Court he had clearly stated that no confession was made before him. His attention was however drawn to his statement made by him before the committing Magistrate where he had admitted that he saw the appellant running and on being questioned the appellant told him that he had committed a mistake and had killed his brother due to a quarrel.In cross-examination the witness admitted that he did not narrate this story of the murder to any body.He made the disclosure for the first time when he was called to the police station.The witness met a number of persons on that day but he did not mention the factum of the confession to any one of them. Secondly the evidence shows that he was not known to the appellant and therefore we find it difficult to believe that the appellant would make a confession to a person who was not known to him at all For these reasons, therefore, we find it wholly unsafe to accept the evidence of the extra judicial confession of the appellant to PW Sukhlal. Another important circumstance which negatives the prosecution case is that no motive whatsoever for the appellant to kill his brother has been either alleged or proved.Further the deceased appears to have received as many as 12 incised wounds on various parts of the body and this could not have been done by the appellant alone unless he was accompanied by other friends.We are clearly of the view that the prosecution has not proved the case against the appellant beyond reasonable doubt.We, therefore allow this appeal set aside the judgment of the High Court and acquit the appellant of the charge a framed against him. The appellant may now be released forthwith.