

Supreme Court of India

Rajju Alias Prakash vs State Of Madhya Pradesh on 27 April, 1993

Equivalent citations: AIR 1994 SC 1459, 1994 CriLJ 2167, JT 1993 (3) SC 535, 1993 (2) SCALE 659, 1993 Supp (4) SCC 667

Author: N Singh

Bench: K J Reddy, N Singh

ORDER N.P. Singh, J.

1. The appellant along with three other accused persons was put on trial for an offence under Section 302 read with Section 34 of the Penal Code, for having committed the murder of one Munna, on 1.10.1979.

2. It is the case of the prosecution that on 1.10.1979, being the Dussehra day, Munna (the deceased) had his lunch with Vishwanath (PW-2) and had fixed his dinner at the place of Pancham (PW-6), a relative of PW-2. The deceased reached the house of PW-6 in the evening. PW-6 went to call PW-2. At that very time someone called Munna from outside, it is said that the appellant along with other three accused persons (since acquitted) started assaulting the deceased. In the meantime, PW-2 reached there and saw the deceased being assaulted. Among the four accused persons he identified only the appellant. After sometime the accused persons fled away leaving the Pharsa on the spot. PW-2 immediately ran to Prem Narayan (PW-1), the brother of the deceased, to inform him. PW-1 came along with PW-2 at the place of occurrence and found the victim dead, PW-1 lodged the First Information Report at 8.50 P.M. The occurrence is said to have taken place at about 8.00 in the evening. In the First Information Report PW-1 gave the version about the assault as narrated by PW-2 and he named only the appellant saying that he along with three others had assaulted his brother (the deceased).

3. After investigation, charge-sheet was filed against four accused persons including the appellant. However, the learned Additional Sessions Judge came to the conclusion that it was not safe to convict the accused persons on basis of the two eye-witnesses PW-2 and PW-3 and he gave benefit of doubt and acquitted the accused persons including the appellant.

4. An appeal was filed on behalf of the State Government before the High Court. The High Court affirmed the acquittal of the three accused persons, but set aside the order of acquittal so far the appellant is concerned and convicted the appellant under Section 302 of the Penal Code and sentenced him to undergo rigorous imprisonment for life.

5. This appeal has been filed under Section 379 of the CrPC. The learned Counsel appearing for the appellant, questioned the validity of the conviction of the appellant, on the ground that it is primarily based on the evidence of PW-2 only, who was according to the prosecution case itself, very close to the deceased and as such was an interested witness. The High Court while reversing the order of the acquittal, has relied on the ocular testimony of PW-2 and PW-3; however, about PW-3 later it has been observed that even without taking into consideration the evidence of PW-3, on the basis of the materials on record, there was no difficulty in arriving at the conclusion that appellant was one of the assailants of the deceased who had participated in the murderous assault on him with

Pharsa killing him on the spot.

6. It may be mentioned at the outset that the special feature of the case, is that the occurrence took place at about 8.00 in the evening and the First Information Report was lodged by PW-1, an Advocate who happened to be the brother of the deceased, at 8.50 P.M., the same evening i.e. within an hour of the occurrence. In the First Information Report only the appellant was named and it was said that he along with three other accused persons had assaulted the deceased. If PW-2 or PW-1, the informant had any motive to falsely implicate their enemies or persons against whom they had any grudge then they would have named three other persons as well. But they admitted that only the appellant was identified and others were not known to them; The version given in the First Information Report is fully supported by PW-2 and PW-3 in Court. The learned Counsel, who appeared for the appellant, could not point out as to why the evidence of PW-2 should not be accepted. Merely he was known to the deceased or was intimate with him cannot be a ground for rejecting his testimony. If he was not there at the scene of occurrence, the First Information Report could not have been lodged within an hour of the occurrence. We have perused the records and we are in complete agreement with the view taken by the High Court that even if the evidence of PW-3 who was a close neighbour of PW-6 is not taken into consideration, still it can be held that prosecution has proved the case beyond all reasonable-doubt so far the appellant is concerned.

7. Accordingly the appeal fails and it is dismissed.