State of Haryana v Ram Pal and Others
Supreme Court of India

7 February 2005
Appeal (Crl.) 234 of 2005 (Arising out of S.L.P. (Crl.) No. 3370 of 2003)
The Judgment was delivered by : Arijit Pasayat, J.
Leave granted.
1. The State of Haryana questions legality of the order passed by the Division Bench of the Punjab and H aryana High Court dismissing its application under Section 378(3) of the Criminal Procedure Code, 1973 (in short the 'Code').
2. Respondents faced trial for alleged commission of the offences punishable under Sections 148, 302, 4 52, 506, 323 read with Section 149 of the Indian Penal Code, 1860 (in short the 'IPC'). The accusations a gainst the accused persons were that they formed an unlawful assembly and being members of such unla wful assembly, they trespassed into the house of one Dalel Singh (hereinafter referred to as the 'decease d') and inflicted injuries on him and his son Nafe Singh (PW-5) by deadly weapons which they were carryi ng. The date and time of occurrence was stated to be 23.2.1999 at about 6.00 a.m. There were two eyewi tnesses to the occurrence namely Parma Nand (PW-4), the informant and Nafe Singh, the injured (PW-5). Accused persons took the plea of false implication and attributed assaults on the accused persons by the deceased and Nefa Singh (PW-5). Three witnesses were examined to further the defence version of fals e implication.
3. The trial Court found the evidence of witnesses to be credible and cogent and found that some of the a ccused persons were responsible for the injuries on the deceased and the injured PW-5. It held that some of the accused persons did not inflict any injury and the assault made by accused Ram Chander was an i ndividual act and the other two accused persons, namely, Ram Pal and Palla Ram were to be convicted f or offence punishable under Sections 452 and 323 read with Section 34 IPC. It was held that since the tot al number of persons proved to have committed the offences was only three, provisions of Section 149 w ere not attracted. Ultimately, accused Ram Chander was found guilty of offence punishable under Section 304 Part II IPC and other two accused persons named above for the offences punishable under Sections 452 and 323 read with Section 34 IPC. Other accused persons were acquitted of the charges.
4. The State of Haryana filed an application in terms of Section 378(3) of the Code taking the stand that f or attracting Section 149 IPC it is not necessary to attribute any particular overt act. Further, merely becau se the accused Ram Chander had assaulted by the blunt side of the Gandasa, it cannot mean that he did not have the requisite intention to commit the offence of murder. The trial Court having noticed that the bl ow was given with such great force that it caused multiple fractures and laceration of the brain, the alterati on of the conviction from Section 302 IPC to Section 304 Part II was not correct.
The High Court dismissed the application with the following order:
"We find no good ground to interfere with the reasoned judgment of the trial Court. Dismissed."
5. Learned counsel for the appellant-State submitted that the manner of disposal of the application as do ne by the High Court is unsustainable.
6. In response, learned counsel for the accused persons submitted that the High Court was justified in no t interfering with the elaborate judgment of the trial Court, by refusing grant of leave.
7. The trial Court was required to carefully appraise the entire evidence and then come to a conclusion. If the trial Court was at lapse in this regard the High Court was obliged to undertake such an exercise by en tertaining the appeal. The trial Court on the facts of this case did not perform its duties, as was enjoined o n it by law. The High Court ought to have in such circumstances granted leave and thereafter as a first co urt of appeal, re-appreciated the entire evidence on the record independently and returned its findings obj ectively as regards guilt or otherwise of the accused. It has failed to do so. The questions involved were n ot trivial. The question regarding application of Sections 302 and 149 IPC as raised does require consider ation, keeping in view the evidence adduced and conclusions of trial Court. The High Court has not given any reasons for refusing to grant leave to file appeal against acquittal, and seems to have been completel y oblivious to the fact that by such refusal, a close scrutiny of the order of acquittal, by the appellate forum , has been lost once and for all. The manner in which appeal against acquittal has been dealt with by the High Court leaves much to be desired. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order, indicative of an ap plication of its mind; all the more when its order is amenable to further avenue of challenge. The absence

of reasons has rendered the High Court order not sustainable. Similar view has been expressed in State of U.P. v. Battan and Ors (2001 (10) SCC 607 2000 Indlaw SC 3698). About two decades back in State of Maharashtra v. Vithal Rao Pritirao Chawan (AIR 1982 SC 1215 1981 Indlaw SC 76) the desirability of a s peaking order while dealing with an application for grant of leave was highlighted. The requirement of indi cating reasons in such cases has been judicially recognized as imperative. The view was re-iterated in Ja wahar Lal Singh v. Naresh Singh and Ors. (1987 (2) SCC 222 1987 Indlaw SC 28717). Judicial discipline to abide by declaration of law by this Court, cannot be forsaken, under any pretext by any authority or Co urt, be it even the highest Court in a State, oblivious to Article 141 of the Constitution of India, 1950 (in sh ort the 'Constitution').

8. Reason is the heartbeat of every conclusion, and without the same it becomes lifeless. (See Raj Kisho re Jha v. State of Bihar and Ors. (2003 (7) Supreme 152 2003 Indlaw SC 819).

9. Even in respect of administrative orders Lord Denning M.R. in Breen v. Amalgamated Engineering Uni on (1971 (1) All E.R. 1148) observed "The giving of reasons is one of the fundamentals of good administr ation". In Alexander Machinery (Dudley) Ltd. v. Crabtree (1974 ICR 120)(NIRC) it was observed: "Failure t o give reasons amounts to denial of justice". Reasons are live links between the mind of the decision-take r to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of th e sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate functi on or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an in dispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind t o the matter before Court. Another rationale is that the affected party can know why the decision has gon e against him. One of the salutary requirements of natural justice is spelling out reasons for the order mad e; in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judici al or quasi- judicial performance.

10. The above position was highlighted in State of Punjab v. Bhag Singh (2004 (1) SCC 547 2003 Indlaw SC 1159).

11. In view of the aforesaid legal position, the impugned judgment of the High Court is unsustainable and is set aside. We grant leave to the State to file the appeal. The High Court shall entertain the appeal and after requisite notice to the respondents hear the appeal and dispose of it in accordance with law, uninflue nced by any observation made in the present appeal. The appeal is allowed to the extent indicated.

Appeal allowed