



NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.2239-2240 OF 2026

NEPAL SINGH

... APPELLANT(S)

VERSUS

THE STATE OF MADHYA PRADESH ... RESPONDENT(S)

J U D G M E N T

1. By way of the impugned judgment dated 08.03.2018 in relation to F.I.R.No.6/1993 registered at police station Hatta, District Damoh, under Sections 147, 148, 149 & 307 of the Indian Penal Code, 1860¹ the accused persons (6 in number) were charged to face trial. The genesis of the prosecution story being that on 06.01.1993 the accused persons formed an unlawful assembly; and with a common object; caused injuries to Gaflu

¹ IPC

and Bharat Singh. In furtherance thereof, they also committed an offence of rioting with deadly weapons. As a result thereof, Gaflu died.

2. Challan was presented against 11 accused persons in relation to the very same offence. To establish their case, prosecution examined 17 witnesses and eventually the prosecution failed to prove the case against only some of the accused. Jhallu, Karodi, Sanju, Ujju @ Ujiyar and Hannu @ Hanumat were acquitted of but the remaining five accused persons, including appellant Nepal Singh were found guilty of having committed offences under Sections 148, 324/149 and 302/149 of IPC. One additional co-accused Prakash Pateriya expired during trial.

3. Noticeably, the State did not prefer any appeal against the judgment of acquittal of 5 accused amongst 11 accused persons. However, in the common appeal preferred by the convicts, the High Court in terms of the impugned judgment, dismissed the appeal and concurred with the view taken by the Trial Court.

4. Before us it cannot be disputed that Gaflu, died as a result of the injuries sustained by him, which fact also stands proven on record through the medical record and more specifically the deposition of PW-14 Dr. P.D. Kargaiyan.

5. The question that arises for consideration is to who were involved in the untoward incident.

6. The prosecution alleges the convicts as also the persons acquitted to have been involved in the incident, and to establish such fact reliance is placed upon the testimony of PW-6 the alleged eye-witness, who also sustained injuries in the very same incident, and PW-7 who is the wife of the deceased. The examination-in-chief part of the testimonies of these witnesses undoubtedly establishes that the assailants were the perpetrators, who, without any sufficient cause assaulted the deceased as well as the eye-witness (PW-6). But, on a careful perusal of the cross-examination part of the testimonies, we find them to have mutually contradicted themselves. These testimonies are full of embellishments. To our mind they do not inspire confidence at all. Their depositions are not worthy of credence. Their testimonies cannot be believed.

7. PW-6 admits that prior to the incident there was a fight between Ramsewak and Prakash Pateriya, and on some earlier occasion there was also a quarrel with Harsewak Pateriya and in that Ravi Singh sustained injuries. He further admits that Gaflu, being one of the assailants was also named as an accused in the said incident. Though the police were hunting for his father, but however he could not be caught. He contradicts his earlier version of his mother being present on the spot and having witnessed the incident. He admits that the police had reached the spot when Gaflu was still alive, yet the police did not record his statement. He further admits that his father was not interrogated

by the police in his presence. After all, one cannot forget that Gaflu, himself was an accused. He also admits that Prakash Pateriya, owned the land which was being cultivated by the accused persons. It is his case that because of the injuries sustained he lost his consciousness. Well, if that were so, then how could he have described as to which of the assailants inflicted the blow and with which weapon, particularly when he claims to have fallen unconscious upon receiving the first blow? What renders his testimony to be not worthy of credence is his own admission “*I did not personally witness my father being struck by the farsa*”

8. Similarly, PW-7 admits that, “*On the day of altercation, I was at home feeding my children when I heard a commotion inside the house indicating that my husband and son had been assaulted in the field. I immediately ran towards the scene accompanied by many villagers*”. She further states that by the time she reached the spot her husband was already placed on the cot. This only belies her version in the examination-in-chief part of the testimony that she had witnessed the incident having taken place.

9. We notice that the High Court has only considered the testimonies of the two witnesses on the premise that there was no other witness who witnessed such an incident. The mere recovery of weapons such as *lathi, farsa, ballam* etc., cannot, by itself establish any linkage with the accused, particularly when

such articles are commonly found in every household in the rural areas. It has already come on record that the owner of the land tilled by the convicts had, in fact, been assaulted by the complainant party. This was just prior to the occurrence of the incident in question. There was a land dispute between the parties and the possibility of the accused being falsely implicated cannot be ruled out. We may also notice that testimonies of PW-8 and PW-9, who allegedly witnessed the occurrence of the incident is not worthy of credence, for from their cross-examination part of the testimony, they appear to have been planted by the prosecution.

10. That apart, we may also observe that on the same set of facts, the learned Trial Court convicted certain persons and acquitted others. On the very same set of depositions, assigning similar roles to all the accused persons, either all should have been convicted or acquitted. There is no discussion by the High Court as to why the reasoning adopted by the Trial Court for acquitting the co-accused could not have been adopted *qua* the convicts.

11. Accordingly, the judgment of conviction of the appellant is hereby set aside, and the appeals are disposed of. Judgment dated 08.03.2018 passed in Criminal Appeal Nos.1272 of 1995 and 1327 of 1995 titled ***Bahadur Singh and Ors. vs. The State of Madhya Pradesh through P.S. Hatta, District Damoh***, passed

by the High Court of Madhya Pradesh at Jabalpur, is quashed and set aside. Accordingly, the accused, if in jail, is directed to be set free. Bail bonds, if any, stands cancelled. Pending application(s), if any, shall stand disposed of.

.....J.
(SANJAY KAROL)

.....J.
(AUGUSTINE GEORGE MASIH)

New Delhi
August 17, 2026