

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.1267-1268 OF 2017

STATE OF UTTAR PRADESH

....APPELLANT(S)

VERSUS

RAM JI SINGH & ANR ETC.

...RESPONDENT(S)

O R D E R

1. We have heard learned counsel for the parties and also perused the record.

2. These appeals have been preferred by the State of Uttar Pradesh against the acquittal of respondents - Ram Ji Singh S/o Vishwanath Singh, Laxman Singh S/o Vishwanath Singh and Anjani Singh s/o Ram Ji Singh by the High Court by reversing the order of the Trial Court, by which they were convicted and sentenced for the murder of Lalita Singh.

3. The case of the prosecution is that on 29.05.2006 at 11.00 a.m., five accused persons including three respondents herein climbed the roof of house of one Paras Nath Singh and hurled abuses at the complainant party. When the deceased Lalita Singh climbed the roof of his house, the assailants in furtherance of their common object fired at the deceased with their licensed guns, due to which the

deceased fell down and later on died. The specific role attributed to Anjani Singh-respondent no. 3 is of firing. Ram Ji Singh and Laxman Singh are said to have exhorted the co-accused to fire on the deceased.

4. The prosecution, apart from other evidence, examined PW-1 Ram Nath Singh who lodged the FIR at 12.25 hours on the same day. The record shows that the inquest was conducted at 12.50 hours which mentioned the number of the F.I.R. The post-mortem of the deceased was conducted by the doctor at 7.10 p.m. on the same day.

5. The High Court acquitted the respondents mainly on the ground that, as against the ocular version of firing of three shots, medical evidence showed that four shots had been fired. It was further observed that there was no pellet in the body of the deceased. The bullet which was found in his body showed that the same could not be associated with the double barrel gun, as alleged by the prosecution. It was further observed that the bullet was not sent for examination.

6. We find that there is no reason to reject the evidence of PW-1 Ram Nath Singh which was also corroborated by evidence of PW-3 Smt. Nirosh Singh and PW-5 Sh. Neeraj Singh. The mere fact that there is a contradiction with regard to number of shots fired and the bullet found in the body of the

deceased being not sent for examination could not be enough, in the circumstances, to discard the otherwise credible ocular version. Even if the nature of firearm used is different from what is described by the witness, the ocular evidence could not be ignored unless the same was unreliable having regard to the over all evidence on record.

7. In view of above, we are unable to sustain acquittal of Anjani Singh who has been assigned specific role of firing. Accordingly, we set aside his acquittal and convict him under Section 302 IPC and sentence him to undergo life imprisonment. He may be taken into custody to serve out the sentence. However, by way of abundance, we do not disturb the acquittal of Ram Ji Singh and Laxman Singh.

The appeals are partly allowed in above terms.

.....J.
[ADARSH KUMAR GOEL]

NEW DELHI
31st AUGUST, 2017

.....J.
[UDAY UMESH LALIT]

ITEM NO.101

COURT NO.11

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCriminal Appeal No(s). 1267-1268/2017

STATE OF UTTAR PRADESH

Appellant(s)

VERSUS

RAM JI SINGH & ANR ETC.

Respondent(s)

(FOR EXEMPTION FROM FILING O.T. ON IA 44724/2017 and IA No.81099/2017-EXEMPTION FROM FILING O.T.)

Date : 31-08-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE UDAY UMESH LALITFor Appellant(s) Mr. Ratnakar Dash, Sr. Adv.
Ms. Alka Sinha, Adv.
Mr. Anuvrat Sharma, AORFor Respondent(s) Mr. Mahabir Singh, Sr. Adv.
Mr. Manoj Saxena, Adv.
Mr. G.N. Singh, Adv.
Mr. Ram Krishna, Adv.
Mr. Ravindra Kumar, AORUPON hearing the counsel the Court made the following
O R D E RThe appeals are partly allowed in terms of the
signed order.Pending application(s), if any, shall also
stand disposed of.(MADHU BALA)
COURT MASTER (SH)
(Signed order is placed on the file)(PARVEEN KUMARI PASRICHA)
BRANCH OFFICER