

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2020
[@ SPECIAL LEAVE PETITION (CRL.) NO. 8158 OF 2019]

GOPAL Appellant (s)

VERSUS

THE STATE OF MADHYA PRADESH Respondent(s)

O R D E R

Leave granted.

We have heard the learned counsel for the appellant as well as the learned counsel appearing for the State. We have perused the FIR, which was lodged at 9.30 PM on 5th of June, 1999, which narrated that there was an acid attack on the deceased by four persons. The FIR stated that Accused Nos. 3 and 4 exhorted Accused Nos. 1 and 2 "*to finish work*", after which, Accused Nos. 1 and 2 threw acid on the deceased. The FIR then narrated that all the four accused threw acid. It has been argued that there is a contradiction as to who threw the acid. Further, PW6, the Doctor, before whom the Dying Declaration was made between 10.30 PM and 10.35 PM, also records that all four accused threw the acid. The appellant before us is Accused No. 3 and his counsel, therefore, rightly relies upon this contradiction. He also relies upon the fact that PWs 1 to 4 had turned hostile and, therefore, had to be cross-

examined.

Having gone through the Judgment of the Trial Court as well as that of the High Court, we find that both have satisfactorily dealt with the so-called contradiction, and have held that in any case, under Section 34 IPC, the Accused No. 3 i.e. the appellant herein can be roped in. Further, acid was found in the container which was lying at the site, as per the FSL Report. The Dying Declaration, therefore, being an extremely strong piece of evidence before an independent witness, the Doctor, who admitted the deceased to the hospital and whose notes made it clear that the deceased was able to speak upto 11.00PM on that date, would also make it clear that the Trial Court and the High Court rightly disbelieved Defense Witnesses 1 to 5 when they deposed that the acid attack was such that as soon as the acid was thrown on the victim, he could not speak.

We are, therefore, satisfied that this is not a case in which two views are possible, as was sought to be contended before us by the learned counsel for the appellant by citing "State of Punjab Vs. Pargat Singh and Ors." [(2018) 15 SCC 233]. This is a case in which it is proved beyond reasonable doubt that the appellant was very clearly involved in this dastardly acid attack, for which he has rightly been

sentenced to Life Imprisonment. We, therefore, find no reason to interfere with the well reasoned Judgments of the Trial Court as well as of the the High Court.

The appeal is, accordingly, dismissed.

.....J.
[ROHINTON FALI NARIMAN]

.....J.
[NAVIN SINHA]

.....J.
[K. M. JOSEPH]

New Delhi;
DECEMBER 15, 2020.

