

CASE NO.:
Appeal (crl.) 147 of 2003

PETITIONER:
BADRILAL

RESPONDENT:
CHANDAN SINGH & ORS.

DATE OF JUDGMENT: 03/02/2005

BENCH:
B.P. SINGH & B.N. SRIKRISHNA

JUDGMENT:
J U D G M E N T

B.P.Singh, J.

We have heard counsel for the parties.

In this appeal by special leave the order of the High Court of Madhya Pradesh, Indore Bench dated 9th January, 2002 in Criminal Appeal No.1213/2001 has been impugned. The High Court by its aforesaid order found that having regard to the evidence on record, no case for interference was made out in the said appeal against acquittal and accordingly the court declined leave to appeal and dismissed the appeal.

The State's appeal having been dismissed by the High Court, the injured Badrilal has preferred this appeal by special leave.

In the occurrence that took place on the 17th March, 1997 two persons were seriously injured namely, Anita PW-6 and Badrilal PW-9.

The case of the prosecution is that Anita rushed to her village and reported the matter to one Kanak Singh PW-4 who later lodged a first information report. Though we have looked into the evidence on record, we do not wish to express any opinion at this stage in view of the order which we propose to make. We are satisfied that this is one of those cases where the High Court should have at least considered on merit the appeal against acquittal preferred by the State. This was not a case in which the High Court should have refused leave to appeal. This, however, should not be understood as expression of opinion on the merit of the case either way.

We allow this appeal, set aside the impugned order of the High Court dated 9th January, 2002 and remit the matter to the High Court to grant leave to appeal to the State to appeal against the judgment and order of the Additional sessions judge, Dhar dated 30th July 2001 in S.T.No.191/97 and to dispose of the appeal thereafter on merit.