

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 1268 OF 2004

STATE OF RAJASTHAN

.. APPELLANT(S)

VS.

RAMESHWAR DAYAL & ANR.

.. RESPONDENT(S)

O R D E R

1. We have heard the learned counsel for the parties.
2. We find that the judgment of acquittal recorded by the High Court is based on an appreciation of the evidence and the positive finding is that the two eye witnesses P.Ws. 1 and 3 were not present. For arriving at this conclusion, the Court has minutely gone through the evidence of these two eye witnesses and observed that the statement of P.W. 2 - Sandeep Kumar in fact belied the statements of P.Ws. 1 and 3.
3. We are of the opinion that as the High Court has taken a view which was possible on the evidence, no interference is called for in this appeal against acquittal.
4. Dr. Manish Singhvi, the learned Additional Advocate

General for the State has, however, argued that the discrepancies pointed out by the High Court were very insignificant and could not lead to the conclusion that the two eye witnesses were not telling the truth. We, however, feel that the discrepancies pointed out by the High Court are not insignificant and go to the very root of the prosecution story.

5. We, accordingly, find that no interference is called for in this appeal under Article 136 of the Constitution of India. Dismissed.

.....J.
(HARJIT SINGH BEDI)

.....J.
(CHANDRAMAULI KR. PRASAD)

New Delhi,
October 06, 2010.

JUDGMENT