

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

CRIMINAL APPEAL NO. 817 of 2007

RAM DAS

..... APPELLANT

VERSUS

STATE OF MADHYA PRADESH

..... RESPONDENT

O R D E R

1. At about 8:30a.m. on 19th July, 1990 Raju PW-1 and his father Nand Ram hereinafter referred to as 'the deceased' were in their field guarding their crop, when the appellant Ram Das arrived at that place carrying an axe. He quarreled with the deceased asking him as to why he had dismantled a part of the mound in his field. This led to an altercation between them whereupon the appellant picked up a stone from his field and hit the deceased on his chest and when he fell down caused him 7/8 injuries with the axe which he was already carrying. On the cries raised by Raju, PW-1, Ratanlal and Tansi Pws- 2 and 3 also arrived at the spot whereafter the appellant ran away towards the village. The trial court on an examination of the evidence of Pws - 1, 2 and 3 observed that the evidence could not be believed as

there were discrepancies inter se the witnesses. It also held that their evidence was not supported by the medical testimony inasmuch as there were only four injuries on the dead body whereas the witnesses had stated them to be between 7 and 15 injuries. The trial court, accordingly, acquitted the accused. An appeal was thereafter taken by the State of Madhya Pradesh to the High Court and the High Court relying on the Pws - 1, 2 and 3 as also the medical evidence and finding that the judgment of the trial court was perverse and not possible on the evidence that had come before it, has reversed the judgment of the trial court insofar as the conviction was concerned but holding that there was no intention on the part of the appellant to cause death, as there was no pre-meditation and that it had happened in the course of a sudden quarrel, convicted him under Section 304 Part 2 of the IPC and sentenced him to 8 years rigorous imprisonment. This appeal by way of special leave is before us by the accused Ram Das.

2. We have heard the learned counsel for the parties and gone through the evidence very carefully. We find absolutely no reason to doubt the evidence of Pws - 1, 2 and 3. PW -1 Raju was about 10/12 years old and was also the author of the First Information Report. The

trial court had put certain questions to him during the course of his examination in chief which he had answered very lucidly and logically. We also see that he cannot be said to be so young that he would not be able to understand as to what could have happened in his presence. Likewise, we find that the evidence of P.Ws. 2 and 3, Ratanlal and Tansi, whose fields were adjoining those of the deceased have fully supported the prosecution story. Nothing has been brought out on record as to why these two witnesses would tell a lie about a person for whom they did not have any ill-will. We are, therefore, of the opinion that the conviction of the appellant was fully justified. We are indeed surprised as to how in the facts of the case this matter would fall under Section 304 Part 2 of the IPC, as the medical evidence shows five injuries on the person of the deceased, all on the head and with all the bones of the head being fractures which could have been caused with an axe. We are, however, unable to do anything in the matter as the State has not chosen to file an appeal against the judgment of the High Court, on this score. The appeal is dismissed.

.....J
[HARJIT SINGH BEDI]

.....J
[CHANDRAMAULI KR. PRASAD]

NEW DELHI
APRIL 05, 2011.

