

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1007 OF 2008

AMAR SINGH JATAV & ANR.

...APPELLANTS

VERSUS

STATE OF MADHYA PRADESH

...RESPONDENT

O R D E R

1. Accused No.5 (Amarg Singh Jatav) and Accused No.6 (Himanshu Mishra) are the appellants before us in this appeal against the judgment and order passed by the High Court of Judicature of Madhya Pradesh at Jabalpur in Criminal Appeal No.1358 of 1995, dated 03.10.2005. By the impugned judgment and order, the High Court has reversed the judgment and order passed by the Additional Sessions Judge, Betul in Sessions Trial No.111 of 1993, dated 25.01.1994.

2. Accused Nos. 5 and 6 are police constables. They, along with two others, had arrested one Gunda @ Bhuta, as a suspect, in pursuance of the report filed by one Girdhari for

an offence under Section 302 of the Indian Penal Code, 1860 ("IPC" for short). While investigating the said report, they had taken Gunda @ Bhuta from the Betul police station to Gajpur village for the purpose of further investigation of the said report. It is the case of the appellants that when Gunda @ Bhuta was taken for the purpose of recovery of murder weapon in the field of Girdhari, Girdhari assaulted Gunda @ Bhuta with lathi and kurfi and thereby caused nearly 13 grievous injuries. As a result of the injuries, according to the appellants, Gunda @ Bhuta died while he was being carried away in the jeep from Gajpur village to Betul police station.

3. The Prosecution has examined nearly 12 witnesses in support of their case. The Trial Judge, after appreciating the evidence and the materials on record, has disbelieved the case of the Prosecution and accordingly has acquitted the appellants for offences under Section 302 of the IPC.

4. Being aggrieved by the said judgment and order, the State of Madhya Pradesh had appealed before the High Court. The High Court once again perused and appreciated the evidence and the materials on record. Thereafter the High Court, in our opinion, rightly thought it fit to reverse the finding of the Trial Court and convicted the appellants for offences under Section 304 Part-II of the I.P.C.

5. We have heard *in extenso* Shri.B.K.Satiya, learned counsel for the appellants and Smt. Vibha Datta Makhija, learned counsel for the respondent-State. We have also carefully perused the judgments and orders of the Trial Court as also of the High Court. We have also considered the evidence that was recorded by the Trial Court. In our opinion, the High Court was justified in all respects to reverse the finding of acquittal of the appellants. Since we do not find any legal infirmity in the judgment and order passed by the High Court, we do not intend to interfere with the said judgment. Accordingly, the appeal requires to be dismissed and it is dismissed.

6. We are informed that the appellants are on bail pursuant to the orders passed by this Court on 07.07.2008. Now, we direct that the bail bonds of the accused persons be cancelled and the accused persons be taken into custody forthwith to serve out the remaining period of the sentence awarded by the High Court.

Ordered accordingly.

.....J.
(H.L. DATTU)

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

NEW DELHI;
SEPTEMBER 26, 2012