

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

CRIMINAL APPEAL NO. 1415 of 2007

DEV SINGH & ORS.

..... APPELLANTS

VERSUS

STATE OF M.P.

..... RESPONDENT

O R D E R

1. Sixteen persons in all were sent up for trial for offences punishable under Sections 148, 302/149, 326/149 and 324/149 and were sentenced accordingly for various terms of imprisonment. The incident happened at about 5:00p.m. on the 12th of November, 1997, in the Grain Market at Rajgarh. As per the allegations, the 16 accused who were armed with weapons such as knives, swords, farsas and lathis had pursuant to their common object committed the murders of Ganga Ram and Chain Singh. A First Information Report, Exhibit P-51, was lodged at Police Station Rajgarh by PW 13 Babulal himself an injured witness. As a consequence of the FIR, the Investigating Officer reached the place of incident and found that in addition to Babulal there were several other injured persons as well they being Gore Lal PW 14, Prem Singh PW 20, Kalabai PW-15, the

wife of PW 4, and Lalita Bai, sister of PW 1. The motive for the incident was that Kalabai had been raped by some of the appellants and Ratanlal which had led to the incident. The trial court examined the entire evidence and came to the conclusion that the participation of nine of the accused was somewhat uncertain and their involvement could not be spelt out beyond reasonable doubt. The trial court, accordingly, acquitted nine of the accused. The matter was thereafter taken in appeal by the accused. The High Court, has, by the impugned judgment, allowed the appeal qua Hari Singh and Raghunath Singh sons of Girdhari Lal, and has ordered their acquittal as well whereas the appeals of Dev Singh, Bansilal, Ratan Lal, Kailash, Kamal Singh and Devi Singh aforesaid have been dismissed. Mr. Javed Mahmud Rao, the learned counsel for the appellants was not present when these appeals last came up. We had then requested Ms. V. Mohana, Advocate to assist us as an Amicus Curiae.

2. We have heard the learned Amicus Curiae on behalf of the appellants and Ms. Aishwarya Bhati the learned counsel for the respondent-State of Madhya Pradesh. We see from the evidence that it is based primarily on the statement of the three injured witnesses. It is also apparent from the record that

three of the accused i.e. Dev Singh, Bansilal and Kailash also sustained injuries. Their presence cannot be doubted under any circumstances. Their plea that as their injuries had not been explained a doubt was cast on the prosecution story has been rejected by the High Court by holding that the injuries suffered by them were so miniscule and so insignificant that the prosecution was not called upon to explain as to how they had been caused. We also see that all the eye witnesses have supported the involvement not only of the three appellants mentioned above but even of Kailash and Kamal Singh. The medical evidence also suggests that the weapons that they were carrying i.e. swords and farsas had been used to cause the injuries on the deceased. As a matter of fact Hari Singh and Raghunath Singh have both been acquitted by the High Court as they were said to have been carrying lathis and no lathi injury had been found on the dead body. Ms. V. Mohana, the learned counsel for the appellants has, however, argued that the appellants herein were placed in the same situation as the ones who had been acquitted by the trial court and by the High Court and as such the appellants ought to have been given the same benefit of doubt. We are unable to accept this submission for the reason that the presence of three of

the appellants is admitted and all five eye witnesses had clearly supported the prosecution version qua them. We also see that the medical evidence fully supports the ocular testimony. Deceased Ganga Ram had suffered as many as seven injuries and Chain Singh ten injuries and all of them were incised cutting wounds.

3. We are therefore of the opinion that no interference is called for in this appeal. It is, accordingly, dismissed.

4. The fee of the Amicus is fixed at ` 7,000/-.

.....J
[HARJIT SINGH BEDI]

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

NEW DELHI
APRIL 13, 2011.

JUDGMENT