Sr. No. 6

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
ATJAMMU

CJ Court
Case: CRAA No. 47/2012

State of J&K .....Appellant(s)/Petitioner(s)

Through :- Ms. Mehar Bali, Advocate &
Mr. Satvik Gupta, Advocate vice
Mr. Ravinder Gupta, AAG

v/s

Ravi Kumar and others .....Respondent(s)

Through :- Mr. Gagan Kohli, Advocate

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER (ORAL)
05.11.2026

1. Aggrieved by the judgment dated 28.01.2012 rendered by the learned Session Court, Jammu (for short 'the trial court)', whereby respondents have been acquitted of the charges for the commission of offences under sections 307,341,326,/34 R.P.C, the appellant-state has assailed the same on the grounds that the learned trial court has not appreciated evidence in its right perspective and despite the fact, that the appellant had proved the commission of offences by respondents, has erroneously acquitted the respondents.

2. Learned counsel for the appellant submits that there is a consistency in the evidence because the injured witness Ashwani Kumar himself has deposed about the three injuries, which are corroborated by the eyewitnesses and the injured witness himself. She also submits that the minor discrepancies, which have been gone into by the learned

trial court, would not demolish the prosecution story. She submits that the credential story of the prosecution was well-established because the mother Raj Kumari, along with the brother Ramesh Chander, who were on the spot and also Asha Devi have clearly deposed that the injuries have been caused by the three accused persons while they were carrying arms sword, toka, and khokhri, respectively. She also submits that the injured witness having been corroborated by the evidence of the Doctor, is an issue which cannot be wriggled out by the counsel for the respondents, and the judgment itself would suffer from an infirmity if the acquittal is allowed to be sustained. She has also drawn attention of this Court to the examination of other witnesses, i.e., PW Sudesh Kumari, PW Rattan Lal, PW Kamal Kumar, PW Raj Kumar, and PW Parshotam Singh. It is further submitted that the wholesome story of recovery of the weapons, the injuries being caused, are foolproof and the minor discrepancies in the statements of Raj Kumari, the mother and Ramesh Kumar have been given undue importance while giving the benefit of doubt to the respondents. She, further, submits that the corroborative evidence along with the medical evidence and the statement of the injured witness, are sufficient to reverse the order of acquittal.

3. The counsel for the respondents, however, submits that the discrepancies in the statements are such that by any stretch of imagination, the prosecution story cannot be sustained. He has also drawn attention of this Court to the fact that even in allegations, there

was no such animosity which could have resulted into such an incident to have happened, as it was merely an incident of cattle grazing, which allegedly resulted into the incident. The counsel, further, submits that PW Raj Kumari was a credible witness of the prosecution and she had deposed in a manner, where she has created complete confusion, as she claims to have reached the spot as soon as the altercation started and has attributed Ram Paul with causing the blow on the right side of her hand. The counsel submits that such blow, which she claims in her statement, allegedly resulting into severing of two middle fingers, absolutely falls flat, because severing of fingers is an injury which would not go unnoticed in terms of the medical report or the evidence rendered by the Doctor concerned, or even the other prosecution witnesses. The counsel further submits that the description of weapons also does not match between all the statements because Raj Kumari said that Ram Paul was having a sword, whereas the other accused were carrying toka and khokhri. Even in the cross-examination, she could not support the recoveries and the possessing of the arms sword, toka, and khokhri by the respective accused persons and the timing also in cross-examination varied as well from the main deposition. The counsel submits that the moment the prosecution case was blown out of proportion, it was a reason sufficient for the learned trial court to disbelieve the testimony of these witnesses. The counsel for the accused/respondents further submits that PW Ramesh Chander was another star witness of the prosecution, because he lodged the

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

complaint and also claimed that he was also attacked and Ravi caused a blow with sword which hit him on the fingers and on his left hand. He also submits that the mother was also there and Ashwani, the main injured, was also there. The counsel submits that such act of Ravi is neither supported by the medical evidence nor by the Doctor and the stray cattle incident seems to have been blown out of proportion for the purpose of invoking serious offences, for what the respondents have been charged with. The counsel for the respondents further submits that this star witness, Ramesh Chander also could not sustain the exact possession of the weapons by the respective accused persons, and seems was not at the spot, but has come later on to support the case and give evidence in favour of the facts set up by the prosecution. The counsel for the respondents has further taken us to the witness of PW Asha Devi, who has also deposed that she knew the accused persons and again the same discrepancy arose, where Ashwani was said to be beaten, but, at the same time Ram Paul was said to have the toka, whereas Ravi was having a sword, and Sham Lal was having a kai with him, which is a discrepancy, which is varying from evidence to evidence. The counsel for the respondents also submits that there was no cause of deeper animosity which could have resulted into an inimical attack and the burden of proof falls upon the prosecution to prove the case beyond reasonable doubt. The counsel further submits that even the injured witness PW Ashwani Kumar, faltered in his description of the incident, because his deposition is in variance with the witness of

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

his brother and the complainant Ramesh Chander as well as his mother's evidence Raj Kumari, who are said to be the eyewitnesses. The counsel for the respondent also submits that the discrepancies in the cross-examination regarding the hospitalization and other details of Ram Paul and other accused persons were also writ large in the cross-examination. He submits that the Doctor has simply not supported any injuries of the brother Ramesh Chander and the motherRaj Kumari, whereas they were very categorical in their injuries and at best has supported three injuries to Ashwani, who was the injured witness. The counsel has taken us to the other depositions of PW Sudesh Kumari, PW Rattan Lal, PW Kamal Kumar, PW Raj Kumar, PW Parshotam Singh and has pointed out various discrepancies.

4. The facts, as noted by this Court, are that FIR No. 48 of 1999 was registered pursuant to a statement made by the injured-Ramesh Kumar, and recorded by ASI Purshotam Singh. The statement recounts an incident of cattle trespass in the victim's paddy fields on September 1, 1999. It is alleged that Ravi Kumar struck Ashwani Kumar on the head and arm with a sword, causing multiple injuries. Further, as per the record, Ram Paul and Sham Lal allegedly dealt fist blows, and the respondents assaulted Ramesh Kumar and his mother as well. The investigation was conducted and offences were found to be made out under Sections 307, 341, 326, 34 of RPC, 307/34 RPC and 4/25 Arms Act, against the accused Ravi Kumar, Ram Paul, and Sham Lal and the trial commenced. The prosecution

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

witnesses were examined along with the I.O. and the Doctor, namely, Dr. Anil Slathia. Learned trial court after hearing the parties, acquitted respondents.

5. This Court, after examining the record and evidence and hearing learned counsel for the parties, finds that the prosecution projected PW Raj Kumari and PW Ramesh Chander as its two key eyewitnesses. However, glaring discrepancies exist in their statements regarding the nature of the weapons carried by the respective accused. As per Raj Kumari, Ram Paul was armed with sword and other two accused were armed Khokhri and Toka, whereas as per Ramesh Chander, Ravi Kumar was armed with sword. It is worthwhile to observe that Toka and Khkhri were never seized by the Police.

6. The collapse of the case did not stop here. This Court takes note of the fact that both of them have claimed injuries in the endeavor to show their capacity as eyewitnesses, which are as severe as severing of two fingers of Raj Kumari and other injuries to Ramesh Chander, which have absolutely not found place anywhere in the medical record or the statement of the Doctor. There would have been one thing if they would not have deposed and the prosecution testimony had solely relied upon the injured witness and Doctor, which could have been a sequence, which could go unscratched in terms of criminal jurisprudence, but the moment the star witnesses or the eyewitnesses, which have been brought forward by the prosecution, start giving prosecution story a completely different turn in terms of

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

injury and the weapons contained, even which are not sustained, then the benefit of doubt starts entering the array for dealing with the situation.

7. PWs Ramesh Chander and Raj Kumar have been cited as marginal witnesses to the disclosure memo regarding the disclosure made by accused Ravi Kumar regarding weapon of offence i.e. sword and recover memo of the same. Both these witnesses are related and interested/injured witnesses and not withstanding their status, both these witnesses are not in tandem and not on the same wave length, as one did not agree with the recovery, whereas the other did agree, but ultimately this also cast a doubt in the mind of the Court because despite the presence of residents of the vicinity, they were not cited as witnesses. Also, PW Ramesh Chander did not prove the disclosure statement and even denied that any weapon of offence was recovered in his presence. Though IO stated about the disclosure statement, but in absence of any cogent evidence regarding recovery of weapon of offence, the disclosure statement also becomes doubtful and inconsequential.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH सत्यमेव जयते

8. This Court also observes that the learned Trial Court conducted a threadbare evaluation of the evidence, thoroughly considering all aspects of the case including the specific weapons attributed to each accused, the injuries inflicted, and the discrepancies emerging from the cross-examination of the key witnesses, before arriving at a considered conclusion. It is a well-settled proposition of law that even where two views are reasonably possible, the Appellate Court

ought not to substitute its own view for that of the Trial Court merely because another view exists.

9. In light of the aforesaid mentioned facts, no cause of interference is being made out. The appeal is ***dismissed***.

(RAJNESH OSWAL) JUDGE **(DR. PUSHPENDRA SINGH BHATI) CHIEF JUSTICE**

JAMMU
05.11.2026
Pawan Angotra

Whether the order is speaking? : Yes/No
Whether the order is reportable? : Yes/No

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते