

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

Cr. Rev. No. 60/2010
Cr.M.P No. 38/2010

Date of decision:29.03.2012

Yash Pal. Vs. **State of J&K and ors.**

Coram:

MR. JUSTICE J. P. SINGH.

Appearing Counsel:

For the Petitioner(s) : Mr. Navneet Dubey, Advocate.

For the Respondent(s) : Mr. Anil Khajuria, Advocate.

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| i) | Whether approved for reporting
in Press/Journal/Media | : | Yes/No |
| ii) | Whether to be reported
in Digest/Journal | : | Yes/No |
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After recording the statements of material witnesses produced by the prosecution to support its Charge under Sections 302/34 RPC and 4/25 Arms Act, against the respondents for committing Murder of Satish Kumar, learned Sessions Judge, Samba acquitted the respondents vide his Order dated 28.6.2010 dispensing with recording of statements of rest of the prosecution witnesses.

The acquittal of the respondents does not appear to have been appealed against by the State.

The petitioner-the father of the deceased has approached this Court seeking quashing of respondents' acquittal.

I have perused the records and heard learned counsel for the parties.

To support its Charge against the respondents, the prosecution relied upon PW-3-Narain Kumar, cited as eye witness to the occurrence, the disclosure statement and recovery of weapon of offence, by the accused besides other witnesses cited in the Police Challan as circumstantial.

PW-Narain Kumar did not support the prosecution story and rather accused the police of arresting him and his father during the investigation of the case. The petitioner, who has approached this Court, too did not support the prosecution, in that, he denied having seen the accused making any disclosure Statement regarding the weapon of offence.

The prosecution story based on circumstantial evidence was not supported by majority of the prosecution witnesses. PW-2 Bodh Raj in whose shop the deceased and the

accused were stated to have a wordy dual with each other, a day before the occurrence, which is indicated as one of the circumstances leading to the commission of Murder, too did not support the prosecution. The story of altercation between the deceased and the accused was supported only by PW-7-Durga Dass and PW-8-Bhushan Kumar.

Finding that there were major contradictions in the story of altercation projected by aforementioned two witnesses and none other had supported the prosecution including the sole eye witness, the Trial Court opted not to examine rest of the witnesses like Photographer, the Doctor who had conducted the post-mortem examination of the deceased and the Investigating Officer. It, accordingly, acquitted the respondents finding that the evidence produced by the prosecution did not suggest any incriminating circumstance against the respondents.

The petitioner's learned counsel's plea that the Trial Court had conducted the trial hurriedly causing failure of justice, is found without merit,

in that, in view of the nature of the evidence produced by the prosecution in the case when barring only two witnesses, all other evidence produced by the prosecution during the course of five sessions fixed in the case had not supported the prosecution and the evidence of the two witnesses pertaining to altercation between the deceased and the respondents, too was found unworthy of credence because of major contradictions therein, no useful purpose would have been served in perpetuating the respondents' trial which would not result in their conviction in view of the nature of the evidence produced in the case.

The respondents' acquittal recorded by the learned Sessions Judge is, therefore, found well merited, in that, no other conclusion was possible in the case on the basis of the evidence that the prosecution had produced, even if other formal witnesses too were to be examined. The learned trial Court has, therefore, proceeded rightly in recording the respondents' acquittal without resorting to the unnecessary exercise of recording the Statements of formal witnesses.

The State having not questioned the respondents' acquittal, it could be interfered with only if a strong case demonstrating failure of justice was made out.

For all what has been said above, I do not find any such case to have been made out by the petitioner warranting interference with the well reasoned order of the Trial Court.

This Criminal Revision is, therefore, found without merit, hence dismissed.

(J.P. Singh)
Judge

Jammu
29.03.2012

Tilak, Secy.