P L D 1962 Supreme Court 269

Present: S. A. Rahman, Fazle-Akbar, B. Z. Kaikaus and

Hamoodur Rahman, JJ.

NAZIR AND OTHERS-Appellants

Versus

THE STATE-Respondent

Criminal Appeal No. 11 of 1962, decided on 16th April 1962.

(On appeal from the judgment and order of the High Court of West Pakistan, Lahore, dated the 12th May 1961, in Criminal Appeal No. 363 of 1960).

(a) Words and phrases------"Interested" witness-"One who has a motive for falsely implicating an accused person".

(b) Witness-----"Interested" eye-witness-Corroboration, whether necessary-"Corroboration" does not necessarily mean "word" of an independent witness, but "anything in circumstances" which tends to satisfy Court that witness has spoken truth-"Corroboration" in case of "eye-witness" not necessarily to be of same probative force as in case of an approver-"Corroboration" by "circumstances" : "number" of persons named as culprits consistent with kind of crime committed; persons named, such as were "expected" to join in attack-"Corroboration" may be spelt out of circumstances in regard to some of the accused while not against others-[Niaz v. The State P L D 1960 S C (Pak.) 387 explained.]

Held, that there cannot be an inflexible rule that the statement of an "interested" witness can never be accepted without corroboration. By what was said in Niaz v. The State (P L D 1960 S C (Pak.) 387) it was not meant to lay down any rule of law though it explained for the guidance of Courts the Supreme Court's approach to the problem that generally confronts the Courts in cases of crime by violence.

There may be an interested witness whom the Court regards as incapable of falsely implicating an innocent person. But he wilt be an exceptional witness and, so far as an ordinary interested witness is concerned, it cannot be said that it is safe to rely upon his testimony in respect of every person against whom he deposes. In order, therefore, to be satisfied that no innocent persons are being implicated along with the guilty, the Court will in the case of an ordinary interested witness look for some circumstance that gives sufficient support to his statement so as to create that degree of probability which can be made the basis of conviction. This is what is meant by saying that the statement of an interested witness ordinarily needs corroboration.

For corroboration it is not necessary that there should be the word of an independent witness supporting the story put forward by an interested witness. Corroboration may be afforded by anything in the circumstances of a case which tends sufficiently to satisfy the mind of the Court that the witness has spoken the truth. What circumstances will be sufficient as corroboration it is not possible to lay down. But, as the question before the Court would be whether some innocent person had not been implicated in addition to those who were guilty, the circumstance relied upon must have a bearing on this question.

In the case of an interested witness the corroboration need not be of the same probative force as in the case of an accomplice for the two do not stand on the same footing.

Circumstances corroborating the eye-witness may be such as (1) that the number of culprits mentioned was such as would be required for an attack of the kind which is the subject matter of the proceedings ; (2) that the persons named as culprits were such as would be expected to join in the attack.

[The Supreme Court spelt out of circumstances of the case, corroboration, in regard to some accused, but not !n regard to an accused who happened to be a "minor of 13 years of age"].

Niaz v. The State P L D 1960 S C (Pak.) 387 explained.

**(c) Evidence------**Appreciation-Supreme Court will not interfere with High Court's "appreciation" of evidence.

R. A. Jeremy Advocate Supreme Court Instructed by Maqbul Ahmad Attorney for Appellants.

M. Anwar Advocate-General West Pakistan (Said Akbar Advocate Supreme Court with him) instructed by Ijaz Ali Attorney for Respondent.

Dates of hearing : 16th and 20th March 1962.