

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO. 296 OF 2002

SANGAM LAL

Appellant (s)

VERSUS

STATE OF U.P.

Respondent(s)

Date: 23/08/2005 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE A.K. MATHUR

For Appellant(s)

Mr. Rakesh Taneja, Adv.

Mr. K.L. Taneja, Adv. (Not Present)

For Respondent(s)

Mr. Prashant Chaudhary, Adv.

Mr. Vivek Singh, Adv.

Mr. Jatinder Kumar Bhatia, Adv. (Not Present)

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

The appeal is allowed, conviction and sentence of the appellant are set aside and he is acquitted of the charge. The appellant, who is in custody, is directed to be released forthwith, if not required in connection with any other case.

[ Alka Dudeja ]

[ Om Prakash ]

Court Master

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 296 OF 2002

Sangam Lal

...Appellant(s)

Versus

State of Uttar Pradesh

...Respondent(s)

O R D E R

Heard learned counsel for the parties.

The appellant and accused-Ghanshyam were charged under Section 302 read with Section 34 of the Indian Penal Code [for short, 'I.P.C.'] and by judgment rendered by trial court, accused-Ghanshyam was acquitted, whereas the appellant was

convicted under Section 302 I.P.C.. On appeal being preferred, the conviction of the appellant was upheld. Hence, this appeal by special leave.

As this appeal has got to be allowed on a short question, it is not necessary to state the facts. According to the evidence, the appellant and accused-Ghanshyam

both were responsible for causing the death of victim-Manorama Devi. According to

the charge, both the accused persons had common intention to commit the murder of

Manorama Devi by inflicting Gandasa injuries upon her. Neither it is the prosecution

case nor there is any evidence to show that it is the appellant who alone assaulted the

deceased or he gave the fatal blow. In view of this, the appellant could not have been

convicted under Section 302 I.P.C. simpliciter, but could have been convicted only

with the aid of Section 34 I.P.C. for having shared the common intention with other

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accused person, and in view of the fact that the other accused person had been already

acquitted and there being no third person, either according to the prosecution case or

evidence, we are of the view that the appellant cannot be convicted under Section 302

read with Section 34 I.P.C.. For the foregoing reasons, we are of the view that at the

High Court was not justified in upholding conviction of the appellant.

Accordingly, the appeal is allowed, conviction and sentence of the appellant

are set aside and he is acquitted of the charge. The appellant, who is in custody, is

directed to be released forthwith, if not required in connection with any other case.

.....J.

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[B.N. AGRAWAL]

.....J.

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[A.K. MATHUR]

New Delhi,

August 23, 2005.