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Cr1.A.No. 593 OF 2003

ITEM No.102

court No. 8

SECTION II

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. 593 of 2003

Govind Bahadur Appellant (s)

Versus

State (NCT) of Delhi Respondent (s)

Date : 10-08-2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE MR. JUSTICE H.K. SEMA

For Appellant (s) Ms. Neeru Vaid, Adv.

For Respondent (s) Mr. T.S. Doabia, Sr. Adv.
Mr. Vikas Sharma, Adv.
for Ms. Anil Katiyar, Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard Ms. Neeru Vaid, learned amicus from 2.00 p.m. to 2.25 p.m. Thereafter Mr. T.S. Doabia, learned senior counsel argued his case for five minutes.

The appeal is allowed, the convictions and sentences of the appellant are set aside and he is acquitted of all the charges. 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. 593 OF 2003

Govind Bahadur...Appellant (s)

Versus

State (NCT) of Delhi...Respondent(s)

O R D E R

Heard learned counsel for the parties.

The appellant herein was convicted by the Trial Court under Section 302 and Section 392 of the Indian Penal Code and sentenced to undergo imprisonment for life and rigorous imprisonment for a period of five years respectively; and to pay a fine of Rs.1,000/- on both counts; in default, to undergo rigorous imprisonment for a further period of one year. Both the sentences were, however, ordered to run concurrently. On appeal being preferred, the High Court confirmed the conviction. Hence, this appeal by special leave.

Undisputedly, in the present case, there is no direct evidence but it is a case of circumstantial evidence. According to the prosecution, there were following circumstances against the accused:

- (a) certain incriminating articles were recovered from possession of the appellant;
- (b) a whisky bottle containing the finger print of accused was recovered from his room;
- (c) the accused was last seen with the victim; and
- (d) the accused absconded after the commission of the offence.

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So far as the first two circumstances are concerned, both the Courts below have come to the conclusion that the prosecution has failed to prove the same by credible evidence. The remaining two circumstances, in our view, cannot form the chain so as to lead to only one hypothesis, which is incompatible with innocence of the accused. This being the position, we are of the view that the prosecution has failed to prove its case beyond reasonable doubt and the High Court was not right in upholding convictions of the appellant.

Accordingly, the appeal is allowed, the convictions and sentences of the appellant are set aside and he is acquitted of all the charges. The appellant, who is in custody, is directed to be released forthwith, if not required in connection with any other case.

.....J.
(B.N. Agrawal)

.....J.
(H.K. Sema)

New Delhi,
August 10, 2004.