

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(s). 573 OF 2000

MAHENDRA SINGH

Appellant (s)

VERSUS

STATE OF M.P.

Respondent(s)

(With office report)

Date: 23/03/2006 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. Gopal Singh, Adv.

For Respondent(s)

Mr. R.P. Gupta, Sr. Adv.

Mr. C.D. Singh, Adv.

Mr. Dhruvad Kashyap, Adv.

Ms. Kiran Suvarna, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

Appeal fails and the same is dismissed. Bail bonds of the appellant,

who is on bail, are cancelled and he is directed to be taken into custody forthwith to serve out the remaining period of sentence for which compliance report must be sent to this Court within one month from the date of receipt of copy of this order by the trial Court.

[Charanjeet Kaur]

Court Master

[Om Prakash]

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 573 OF 2000

Mahendra Singh .. Appellant(s)
Versus
State of M.P. .. Respondent(s)

O R D E R

Heard learned counsel for the parties.

The appellant along with accused Narendra Singh, Asha Devi, Rajendra Singh and Gayatri Devi was tried and by judgment rendered by the trial Court, all of them were acquitted of the charges. So far as other four accused persons are concerned, leave to appeal was refused by the High Court, whereas the same was granted in relation to the appellant alone who has been convicted by the High Court under Section 302 of the Indian Penal code and sentenced to undergo imprisonment for life. Hence, this appeal.

The conviction of the appellant is based upon dying declaration (Ex.P.21) recorded by Executive Magistrate Shamim Zehre (P.W. 12) in presence of Dr. K.K. Verma (P.W.8) who has certified that she was in a fit condition for recording the dying

declaration. In this dying declaration she has stated that the appellant set her on fire. Apart from dying declaration recorded by the Magistrate there is another dying declaration which is oral one made before Sunil (P.W.22), where also the deceased has made similar statement. We have perused original dying declaration as well as evidence of Dr. K.K. Verma (P.W.8), Shamim Zehra (P.W. 12) and Sunil (P.W. 22). We do not find any infirmity in any of the two dying declarations. In our view, the High Court was justified in reversing the order of acquittal which suffers from the vice of perversity and convicting the appellant, as such no interference by this Court is called for.

Accordingly, appeal fails and the same is dismissed. Bail bonds of the appellant, who is on bail, are cancelled and he is directed to be taken into custody forthwith to serve out the remaining period of sentence for which compliance report must be sent to this Court within one month from the date of receipt of copy of this order by the trial Court.

.....J
 [B.N. AGRAWAL]

.....J
 [A.K. MATHUR]

NEW DELHI ,

MARCH 23 , 2006 .