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Crl.A.No. 179 OF 2001

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ITEM No.101

Court No. 9

SECTION IIA

PART-HEARD

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. 179/2001@@

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Sukliya ... Appellant(s)

VERSUS

State of M.P. ... Respondent(s)
(With office report)

Date : 21/03/2002 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.P.SETHI
HON'BLE MR. JUSTICE K.G.BALAKRISHNAN

For Appellant (s) Ms. Sashi Kiran, Adv. (A.C.)
Ms. Kiran Kapoor, Adv.
Ms. Bharti Verma, Adv.

For Respondent (s) Ms. Vibha Dutta Makhija, Adv.
Ms. Bharti Tyagi, Adv.
Mr. Satish K.Agnihotri, Adv.

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

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Ms. Vibha Dutta Makhija, learned counsel started her arguments at 12.30 p.m. and concluded at 12.45 p.m. Thereafter, Ms. Sashi Kiran, learned counsel started her arguments and concluded at 1.00 p.m. After that Ms. Vibha Dutta Makhija, learned counsel again argued till 2.40 p.m.

The appeal is allowed and the judgment impugned is set aside. The appellant shall be set at liberty forthwith if not required in some other case.

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Anita (V.P.Tyagi)
Court Master

(Signed order is placed on the file.)

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

of the deceased clearly and unequivocally show that such injuries cannot be caused by one gun shot. If the accused appellant was alleged to have not fired more than one gun shot, then the injuries found on the person of the deceased cannot be attributed to him. The trial court on appreciation of evidence and noticing other circumstances regarding the recovery of gun, its non-examination by the ballistic expert, non-recovery of pellets and wads on the spot concluded that the appellant was not proved to have committed the crime. The presence of the appellant at the spot was thus not established by the prosecution beyond reasonable doubt. The settled position of law regarding the powers to be exercised by the High Court in an appeal against the order of acquittal is that though the High Court has full powers to review the evidence upon which an order of acquittal is based, it will not interfere with an order of acquittal because with the passing of an order of acquittal the presumption of innocence in favour of the accused is reinforced. The High Court should be slow in disturbing the finding of the fact arrived at by the trial court. The golden thread which runs through the web of administration of justice in criminal case is that if two views are possible on the evidence adduced in the case, one
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pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted.

Without holding that the view taken by the trial court was highly improbable or was based upon inadmissible evidence or ignoring the legal evidence or, was the result of hypothesis and conjectures, the High Court was not justified in setting aside the order of acquittal passed in favour of the appellant.

In the facts and circumstances of the case, this appeal is allowed and the judgment impugned is set aside. The appellant shall be set at liberty forthwith if not required in some other case.

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.....J.
(R.P.Sethi)

.....J.
(K.G.Balakrishnan)

New Delhi,
March 21, 2002.