

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 804 OF 2007

STATE OF MADHYA PRADESHAPPELLANT(S)
VERSUS	
HALLE @ PREM LAL & ANR.RESPONDENT(S)

O R D E R

The present appeal, by special leave, is directed against the judgment and order passed in Criminal Appeal No. 1095 of 1998 by the High Court of Madhya Pradesh at Jabalpur, whereby the Division Bench has reversed the judgment of the learned Additional Sessions Judge, Sagar in ST No. 294/1997 dated April 17, 1998, wherein the learned trial Judge has found the respondents guilty of the offence punishable under Section 302 of the Indian Penal Code, 1908 and sentenced them to undergo rigorous imprisonment for life and to pay a fine of `5,000, in default, to suffer further rigorous imprisonment for one year.

The prosecution case, in brief, is that the deceased Vipta, aged about 15-16 years, had alleged to have been teased at the time of her to and fro from home to the school. On April 05, 1997, the deceased had come back to her own village Parasiya from Rahli, where she was prosecuting her studies and staying in a rented house along with her two brothers, namely, Govind and Nandram. As the prosecution

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story unfolds, on April 19, 1997, about 3.00 p.m., the accused persons came to village Parasiya on a cycle and enquired about the residence of Govind Prasad, the informant, from one Madhu Kori and about 6.00 p.m., when Govind Prasad was coming back from jungle along with some others, he found both the accused persons throwing his sister into the well. Seeing such a site, he rushed to the well and found his sister had breathed her last inside the well. On an FIR being lodged, the criminal law was set in motion and after completion of the investigation charge sheet was laid before the competent court, who in its turn committed the matter to the Court of Session for trial for an offence punishable under Section 302 of the Code.

The accused persons pleaded innocence, false implication and claimed to be tried.

The prosecution examined number of witnesses and placed reliance on certain documents. The defence chose not to adduce any evidence.

The learned trial Judge, placing reliance on the testimony of Govind Prasad, PW-2, and Harwaha Gudda Yadav, PW-3, who claimed to have witnessed the incident, accepted their version as absolutely trustworthy and recorded the conviction. On an appeal being filed, as has been mentioned hereinbefore, the High Court reversed the verdict on the

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foundation that the prosecution story was not credible and the appreciation of the evidence by the learned trial Judge was not correct, inasmuch as, the testimonies of the witnesses were replete with unacceptable discrepancies and material contradictions.

We have heard Ms. Vibha Datta Makhija and Ms. Archi

Agnihotri, learned counsel appearing for the appellant-State of Madhya Pradesh, and Mr. D.K. Thakur, learned counsel appearing for the respondents.

On a perusal of the judgment of the High Court, it is noticeable that eyewitness Govind Prasad had stated that he had shouted at the accused persons, but despite the same, they threw his sister into the well and took to their heels. Such a version has not been accepted to inspire confidence as the presence of PW-2, Govind Prasad, at the time of the incident has been doubted by the High Court by placing reliance on other material on record. The High Court has taken note of the distance, normal human conduct, the behaviour of the brother (informant) and reached such a conclusion. That apart, the investigating officer had deposed that there was a rumour that the deceased was raped, but the same had not received any corroboration whatsoever from the medical or other evidence. The Division Bench has also take note of the fact that the deceased had not shouted

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or even made a feeble struggle to save herself. The High Court has taken note of the fact that there was another version that the deceased was not raised any shout or struggle to save herself and further had taken note of the fact that there is another version that the deceased was murdered and thereafter thrown into the well. The said version of the prosecution has not been accepted as Dr. C.K. Dubey, PW-12, who conducted the post-mortem, had opined that the cause of death of the deceased was Asphyxia due to ante-mortem drowning. Regard being had to number of discrepancies and contradictions, the High Court found that it was not possible to come to a conclusion that the accused persons had thrown the deceased into the well in presence of her brother and he had witnessed the incident and, accordingly, giving them benefit of doubt, reversed the judgment of conviction. In our considered opinion, the view expressed by the High Court cannot be found fault with and, accordingly, we concur with the same.

Consequently, the appeal, being sans merit, stands dismissed.

.....J.
(K.S. RADHAKRISHNAN)

.....J.
(DIPAK MISRA)

NEW DELHI,
APRIL 26, 2013.

ITEM NO.105

COURT NO.9

SECTION IIA

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). 804 OF 2007

STATE OF MADHYA PRADESH

Appellant (s)

VERSUS

HALLE @ PREM LAL & ANR.

Respondent(s)

(With appln(s) for exemption from filing O.T. and office report)

Date: 26/04/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN
HON'BLE MR. JUSTICE DIPAK MISRA

For Appellant(s)

Ms. Vibha Datta Makhija, Adv.
Ms. Archi Agnihotri, Adv.

For Respondent(s)

Mr. D.K. Thakur, Adv.
for Mr. Debasis Misra, Adv.

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

The appeal is dismissed in terms of the signed order.

| (N.S.K. Kamesh)

| | (Renuka Sadana)

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| Court Master

| | Court Master

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(signed order is placed on the file)