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Cr1.A.No. 440 OF 1999

ITEM No.101

Court No. 3

SECTION II

(Part-Heard)

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

CRIMINAL APPEAL NO.440 OF 1999

State of Uttar Pradesh Appellant(s)

VERSUS

Sukhpal Singh and Anr. Respondent(s)

Date : 22/04/2004 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU

HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s)Mr. Prashant Chaudhary,Adv.
Mr. R.K. Singh,Adv.
Mr. Praveen Swarup,Adv.

For Respondent (s)Mr. Arvind Kumar,Adv.
Mrs. Laxmi Arvind,Adv.
Mrs. Poonam Prasad,Adv.

Ms. Sandhya Goswami,Adv.(N.P.)

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

The appeal is dismissed in terms of the signed order.
(Neena Verma) (Vijay Aggarwal)

Court Master Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.440 OF 1999

State of Uttar Pradesh
...Appellant

Versus

Sukhpal Singh and Anr.
...Respondents

O R D E R

The above appeal has been filed by the State of Uttar Pradesh against the judgment of a Division Bench of the High Court of Allahabad dated 30.11.1995 in Criminal Appeal No.2969 of 1979 whereunder the High Court, while allowing the appeal filed by the accused, who stood convicted in Sessions Trial No.124/M of 1979 by the IXth Additional Sessions Judge, Kanpur under Sections

302 and 201 IPC. Accused A-2 and A-3 stood arrayed as appellant Nos.2 and 3 and as indicated in the order that accused No.1, who was appellant No.1, had died during the pendency of appeal and the appeal in the High Court stood abated so far as he was concerned. The case of the prosecution was that accused No.1 came to the place of deceased Kallu about 6-7 days prior to the occurrence and after informing his brother, took the deceased under the pretext of holding some wrestling competition to be conducted, the deceased being the wrestler. When he did not return even after 6 or 7 days, a search was caused by his brother and in the process, the informant came to know about the misfortune that has fallen on the deceased and that the accused who are brothers, were said to have put an end to the life of Kallu. After due investigation and filing of the charge-sheet, the learned Sessions Judge to whom the case was committed to his court, held trial, considered the entire evidence on record and was convinced of the guilt of the accused, resulting in the conviction under Sections 302 and 201 IPC, as noted above.

Aggrieved, the accused pursued the matter before the High Court on appeal. The High Court on a careful analysis of the materials independently, found that the incriminating circumstances alleged against the respondents herein have not been properly proved by any concrete or reliable evidence and not only those circumstances were found to be not sufficient to constitute a continuous chain to link the crime with the accused but the evidence of the witnesses were not of such quality as to inspire confidence and, therefore, the accused were entitled to the benefit of doubt. Consequently, the accused, excepting the A-1, who died, were acquitted by the High Court.

Heard the learned counsel for the State and the learned counsel for the respondents. Learned counsel appearing on either side invited our attention to the relevant portions of the judgments of the courts below to substantiate their respective stand. We have carefully gone through the judgments of the courts below as also the relevant materials placed on record. The appreciation of evidence undertaken by the High Court cannot be said to be vitiated on account of any patent error of law or perversity of approach. In our view, the findings of the High Court that the charges have not been substantiated beyond reasonable doubt by any concrete or credible evidence, appears to be well merited and are not shown to suffer from any infirmity to call for interference in our hands. The appeal fails and shall stand dismissed.

.....J.

(DORAISWAMY RAJU)

.....J.
(ARIJIT PASAYAT)

New Delhi,
April 22, 2004.