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Cr1.A.No. 408 OF 1999

ITEM NO.107

COURT No.6

SECTION II-A

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.408/1999

Mannulal Sahu & Anr.

Appellant(s)

Versus

State of M.P.

Respondent(s)

( with office report )

DATE : 18/08/2004

This/These matter/matters was/were  
called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE H.K. SEMA

For Appellant(s)Mr. Somnath Mukherjee, Adv.  
Mr. N.R. Choudhary, Adv.

For Respondent(s)Mr. Siddharth Dave, Adv.  
Ms. Vibha Datta Makhija, Adv.

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

Appeal is allowed, convictions and sentences of the appellants are set aside and they are acquitted of all the charges. Appellant No. 1 Manunulal Sahu,if in custody, is directed to be released forthwith if not required in connection with any other case. Appellant No. 2 who is on bail is discharged from the liability of bail bonds.

[ 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. 408 OF 1999

Mannulal Sahu and Anr.

.  
Appellant(s)

Versus

State of Madhya Pradesh

..  
Respondent(s)

O R D E R

Heard the parties.

The appellants along with Anil Sahu were tried and by judgment rendered by trial Court, appellant No. 1 was convicted under Sections 304 B and 498 A of the Indian Penal Code ( for s hort "the IPC" ) and sentenced to undergo simple imprisonment for a period of seven years and two years respectively. Appellant No. 2 and his brother Anil Sahu were convicted under Sections 304 B, 498 A and 316 of the IPC and each one of them was sentenced to undergo imprisonment for life, three years and ten years respectively. The sentences however, have been ordered to run concurrently. On appeal being preferred, convictions and sentences awarded against the appellants have been confirmed by the High Court whereas while upholding convictions of accused Anil Sahu sentences awarded against him under Sections 304 B and 316 have been reduced from 10 years to 7 years. So far as accused Anil Sahu is concerned, he did not prefer any appeal whereas the appellants filed present appeal by special leave.

In the present case, there is no direct evidence. There were three dying declarations before Court. First dying

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declaration was recorded by an Executive Magistrate (CW 1) on the date of occurrence itself, i.e., on 2.12.1991 at 9.00 p.m. in which, case of accidental fire has been disclosed. Second dying declaration was recorded on the next day, i.e., on 3.12.1991 at 10.20 a.m. by treating doctor (CW 5) which also disclosed a case of accidental fire. Third dying declaration was also recorded on 3.12.1991 at 8.30 p.m., after more than 24 hours of the occurrence which is said to have taken place on 2.12.1991 between 2.00 p.m. and 4.00 p.m. This dying declaration ( Ex . P 4) has been recorded by Tehsildar which runs into more than two pages and wherein entire history from the date of marriage till the date of occurrence has been given in great detail and it was stated that accused persons poured kerosene oil on the victim and set her on fire. It is not possible to believe such a dying declaration where there is so much narration of facts with meticulous details of everything by a dying person. The said dying declaration said to have been recorded by Tehsildar is highly doubtful and in our view is an aftermath especially in view of the fact that according to the earlier two dying declarations it was a case of accidental fire and no case for torture was at all made out. This being the position, we are of the view that it is not safe to place reliance upon the dying declaration recorded by the Tehsildar, as such the prosecution has failed to prove its case beyond reasonable doubts and the High Court was not justified in upholding their convictions.

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In the result, appeal is allowed, convictions and sentences of the appellants are set aside and they are acquitted of all the charges. Appellant No. 1 Mannulal Sahu, if in custody, is directed to be released forthwith if not required in connection with any other case. Appellant No. 2 who is on bail is discharged from the liability of bail bonds.

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

.....J [ H.K. SEMA ]

NEW DELHI,  
AUGUST 18, 2004.