

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). 890 OF 2007

BHADVA Appellant (s)

VERSUS

STATE OF M.P. Respondent(s)
(With office report)

Date: 13/07/2011 This Appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE HARJIT SINGH BEDI
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s) Ms. Ranjana Narayan, (A.C.)
For Respondent(s) Mr. Atul Jha, Adv.
Mr. Dharmendra Kumar Sinha, Adv.

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

Heard learned counsel for the parties.

Vide our separate brief order, while allowing the appeal, we had ordered that the appellant shall be released forthwith, if not required in connection with any other case. The reasons thereof are in terms of the detailed order.

The fee of the Amicus Curiae is fixed at Rs.7,000/-.

[GEETA AHUJA]
SR. P.A.

[VEENA KHERA]
COURT MASTER

(Detailed signed order is placed on the file)
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.890 OF 2007

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On 3rd April, 1995, PW-1 Hariprasad, lodged a First Information Report in Police Station-Bairampur that

while he was sowing paddy, PW-2 Libna Uraon and Beeru Uraon had come to his field and informed him that Guliya Uraon, daughter of PW2 had been missing for the last 15 days and that they had come to know that a dead body tied with a wooden plank was floating in the water tank in Village Gosain Uraon and that it appeared that she had been murdered and the dead body thrown into the tank thereafter. On

receiving this report, a police party left for Village Gosain Uraon and found Guliya's dead body in the water. The

dead body was recovered and sent for its post mortem examination. The appellant was also arrested on suspicion

and was subjected to interrogation by the police and he made

a statement that he had killed Guliya and had first buried

her dead body at some place and thereafter exhumed it and

thrown it in the water tank, but the clothes remained buried

in the grave. A police party accordingly went to the place

pointed out by the appellant and recovered not only the

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clothes of the victim but also the weapon of the offence

which was an iron pickaxe.

The trial court and the High

Court observed that though the only evidence against the

appellant was the recovery of the clothes and pickaxe on the

disclosure statement made under Section 27 of the Indian

Evidence Act, this circumstance was by itself sufficient to

prove the case against the appellant.

The courts below also

found support for the recovery from the statement of PW-8

SHO, Anand Ram, to whom the disclosure statement had been

made and who deposed that the appellant had made a statement

that he had killed the girl and the dead body had then been

buried by him in the field near his house with the

assistance of his brother and that it thereafter been

exhumed and tied to a wooden plank and then thrown into the

water tank of Gosain Uraon.

The courts below accordingly

opined that a case of Section 302 and 201 IPC was made out

against the appellant and he was convicted and sentenced accordingly.

We have heard Ms. Ranjana Narayan, the learned Amicus Curiae for the appellant and the learned counsel for the State of Chhattisgarh. We are of the opinion that there is no evidence which connects the appellant with the murder.

It is significant that the High Court has itself observed that in order to prove a case on circumstantial evidence a chain of circumstances have to be spelt out by the

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prosecution and that there appeared to be no motive for the murder which would also be an extremely relevant consideration in a case based only on circumstantial evidence. We also see that much of PW-8's testimony could not be taken in evidence as a confession made to a police officer would ordinarily not be admissible as per Section 25 of the Indian Evidence Act and it could be used for the limited purpose provided in Section 27 thereof which postulates that when any fact was discovered as discovered in consequence of information received from a person accused of any offence where it relates distinctly to the fact thereof discovered, that alone be admissible. We are, therefore, of the opinion that the statement of PW-8 insofar as it relates to the fact that the appellant had admitted that he had killed the girl and then buried her body and thereafter with the help of his brother exhumed it and tied it to a plank and then thrown it into the tank in village Gosain Uraon, could not be taken in evidence. The only relevant part would be the statement leading to the recovery of the clothes and pickaxe. These circumstances, alone to our mind cannot justify a conviction for murder. We thus find the present case to be one of no evidence.

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We, accordingly, allow the appeal, set aside the judgments of the courts below and acquit the appellant and order that if the appellant is in custody he shall be released forthwith, if not required in connection with any other case. The fee of the Amicus Curiae is fixed at Rs.7,000/-.

.....J
(HARJIT SINGH BEDI)

.....J
(GYAN SUDHA MISRA)

DATE : 13th July, 2011
NEW DELHI
(PART I) ITEM NO.106

COURT NO.7

SECTION IIA

S U P R E M E C O U R T O F I N D I A
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For Respondent(s) Mr. Atul Jha, Adv.
Mr. Dharmendra Kumar Sinha, Adv.

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

Heard learned counsel for the parties.

The appeal is allowed with reasons to follow. It is directed that if the appellant is in custody he shall be released forthwith, if not required in connection with any other case.

[GEETA AHUJA]
SR. P.A.

[VEENA KHERA]
COURT MASTER

(Signed brief order is placed on the file)
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

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STATE OF M.P.

Respondent(s)

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The appeal is allowed with reasons to follow. It is directed that if the appellant is in custody he shall be released forthwith, if not required in connection with any other case.

.....J
(HARJIT SINGH BEDI)

.....J
(GYAN SUDHA MISRA)

DATE : 13th July, 2011
NEW DELHI