

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

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).2277/2005

(From the judgement and order dated 16/04/2004 in CRLA No. 261/2004 of The
HIGH COURT OF M.P. BENCH AT INDORE)

NIRBHAY RAM PATIDAR

Petitioner(s)

VERSUS

STATE OF M.P.

Respondent(s)

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

Date: 18/07/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE P.K. BALASUBRAMANYAN

For Petitioner(s)

Mr. Ajay Sharma,Adv.

Mr. Rajeev Sharma, adv.

For Respondent(s)

Ms. Vibha Datta Makhija,Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order

(Ajay Kr. Jain)

(Anand Singh)

Court Master
Court Master

(Signed order is placed on the f

ile)

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2005

(ARISING OUT OF SLP(CRL.) NO. 2277 OF 2005)

Nirbhay Ram Patidar
Appellant

....

Versus

State of M.P.
Respondent

....

O R D E R

Heard.

Leave granted.

After hearing the learned counsel for the parties, we are satisfied that the impugned judgment

of the High Court suffers from an infirmity, as pointed out hereinafter and hence has to be set aside.

The principal submission made by the learned counsel for the appellant is that on his behalf

there were three witnesses examined in defence at the trial. The evidence of those witnesses was taken into

consideration by the Trial Court. In the submission of the learned counsel for the appellant if the evidence of

those witnesses would have been taken into consideration by the High Court also, then probably the appellant

could have succeeded in persuading the High Court to take a different view of the incident.

Without expressing any opinion on the merits of the plea so canvassed, we too find the

judgment of the High Court to be infirm to the extent to which it does not make any reference to the defence

evidence and does not express any opinion as to whether the defence evidence is worthy of any credence and, if

so, what is its effect on the findings arrived at by the High Court.

The appeal is allowed. The impugned judgment of the High Court is set aside and the appeal is

remanded to the High Court for consideration and decision afresh in the light of the observations made

hereinabove. We make it clear that we have not expressed any opinion on any other issue whatsoever, either of

fact or law, arising for decision in the case which shall be open for consideration and decision afresh by the

High Court.

.....CJI.

(R.C. LAHOTI)

.....J.

(P.K. BALASUBRAMANYAN)

New Delhi

July 18, 2005