

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.870 OF 2000@@
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Erikala Kistanna & Ors. ... APPELLANT(S)

VERSUS

State of A.P. ... RESPONDENT(S)

Date: 13/08/2002. This matter was called on for hearing today.@@
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CORAM:

HON'BLE MR. JUSTICE U.C. BANERJEE
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant(s) Mr. A. Subba Rao, Adv.

For Respondent (s) Mrs. K. Amareshwari, Sr. Adv.
Ms. Anamika, Adv.
Mr. G. Venkatesh, Adv.
Mr. Guntur Prabhakar, Adv.

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

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Mr. A. Subba Rao, learned counsel for the appellant started his arguments at 11.30 a.m. and concluded at 12.10 p.m.

The appeal fails and is dismissed. The bail granted to A4 stands cancelled and he be taken into custody to serve out the sentence.

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(R.K. Dhawan) (Shelly Sengupta)@@
AA
Court Master Court Master
(Signed order is enclosed herewith)

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.870 OF 2000@@
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Erikala Kistanna & Ors.

Appellant(s)

versus

State of A.P.

Respondent(s)

O R D E R@@
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This appeal is directed against the Division Bench Judgment of the Andhra Pradesh High Court. Sixteen accused persons were tried in the Sessions Case No.113 of 1993 on the file of the court of III Addl. Sessions Judge, Kurnool on various criminal charges i.e. under Sections 148, 302 read with Sections 149, 307, 326 read with Sections 149, 324, 149, 448, 436, 435 and 379 of the Indian Penal Code and Sections 3, 6 & 10 of Explosive Substances Act as also under Section 25 (1)(A) (B) and under Section 27 of the Arms Act. There were in fact altogether four deaths and fifteen injured. The trial court, however, on the perusal of the evidence convicted nine persons and acquitted five of the accused persons. The nine convicted by the trial court went before the High Court and the High Court in fact acquitted accused Nos.6,7,8 & 9 and maintained the conviction as passed by the Sessions Court as regards appellants 1 to 5. Hence the appeal before this Court.

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Be it noted that accused No.1 Erikala Kistanna @ Kistigadu died during the pendency of the appeal before this Court, so the appeal presently concerns with accused Nos.2,3,4 & 5. Both the trial court and the High Court narrated the evidence in extenso and even the discrepancy and contradictions therein. By reason thereof, the acquittal were ordered as noticed above. The evidence on record to wit the post-mortem report and the ballistic expert's opinion corroborated to each other without any contradiction and the High Court relying upon the evidence on record came to the conclusion as regards the guilt of the accused Nos.2 to 5. The High Court, in any event, recorded the conclusion that there is sufficient evidence on record to affirm the conviction and sentence as imposed by the lower court under Section 3 and 6 of the Explosive Substances Act, 1908 as against accused Nos.A1 to A5, A7 and A8. The High Court, thus, passed judgment in concurrence with that of the Sessions Court as regards A1 to A5.

Normally the apex court would not interfere with the appreciation of evidence neither there is any scope for further scrutiny since both the courts have dealt with the matter in extenso and with detailed reasons and, on analysis of the material on record. We are not in a position to lend concurrence to the submissions of Mr.

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Subba Rao, learned counsel appearing in support of the appeal, that there is existence of manifest error on the part of the High Court in the matter of affirming the conviction and sentence of the appellants herein. We record our concurrence with the observation of the High

Court as regards the accused persons named above. Hence this appeal fails and is dismissed. The bail granted to A4 stands cancelled and he be taken into custody to serve out the sentence.

.SP1

.....J.
(U.C.BANERJEE)

.....J.
(B.N. AGRAWAL)

New Delhi,
August 13, 2002