

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. 1342 OF 2003

BHAJAN SAHA & ORS.

Appellant (s)

VERSUS

STATE OF TRIPURA

Respondent(s)

(With office report)

Date: 07/03/2006 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE A.K. MATHUR

For Appellant(s)

Mr. P.K. Goswami, Sr. Adv.

Mr. Rajiv Mehta, Adv.

For Respondent(s)

Mr. Gopal Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

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The appeal is allowed. The appellants are directed to be released forthwith, if not required in connection with any other case.

[Alka Dudeja]

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. 1342 OF 2003

Bhajan Saha and Ors.

...Appellant(s)

Versus

State of Tripura

...Respondent(s)

O R D E R

Heard learned counsel for the parties.

The appellants were convicted by the trial court under Section 302 read with Section 34 of the Indian Penal Code [for short, 'I.P.C.'] and sentenced to undergo imprisonment for life and to pay fine of Rs.10,000/- each. They were further convicted under Section 201 read with Section 34 I.P.C. and sentenced to

undergo rigorous imprisonment for a period of three years and to pay fine of Rs.3,000/- each; in default to undergo simple imprisonment for a period of one month. Both the sentences, however, were ordered to run concurrently. On appeal being preferred, the High Court upheld the conviction. Hence, this appeal by special leave.

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In the present case, undisputedly, there is no direct evidence, but it is a case of circumstantial evidence and the only circumstance proved against the accused persons is that the deceased was last seen in their company. It is well settled that in a case of circumstantial evidence, there must be a chain of evidence leading to only one conclusion, which is incompatible with the innocence of the accused. On the basis of the solitary circumstance that the deceased was last seen in the company of the accused persons, it was not safe to convict the accused persons, as such, we are of the view that the High Court was not justified in upholding conviction of the appellant.

Accordingly, the appeal is allowed, conviction and sentence of the appellants are set aside and they are directed to be released forthwith, if not required in connection with any other case.

.....J.

[B.N. AGRAWAL]

.....J.

[A.K. MATHUR]

New Delhi,

March 07, 2006.