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Cr1.A.No. 676 OF 1997
ITEM No. 107
Court No. 3
SECTION II

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. 676 OF 1997

STATE OF RAJASTHAN
.....
APPELLANT (S)

VERSUS

SUNDER SINGH & ANR.
.....
RESPONDENT (S)

(With appln. for permission to place additional documents on record and exemption from filing O.T.)

Date : 04/12/2003
This/These Appeal(s) was/were listed for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s)Mr. Amit Shukla, Adv.
Mr. Ranji Thomas, Adv.
Ms. Bharti Upadhyay, Adv.
Mr. V.N. Raghupathy, Adv.

For Respondent (s)Mr. Anil Kumar Gupta-II, Adv.

UPON hearing counsel, the Court made the following
O R D E R
The appeal fails and is dismissed in terms of the signed order.

KALYANI
(VIJAY AGGARWAL)
COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE.)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 676 OF 1997

STATE OF RAJASTHAN
.....
APPELLANT (S)

VERSUS

SUNDER SINGH & ANR.

.....

RESPONDENT (S)

O R D E R

The State of Rajasthan has come up in appeal against the judgment dated 22nd January, 1997 of the Division Bench of the High Court of Judicature for Rajasthan at Jodhpur in Criminal Appeal No. 261/1979 directing acquittal of the respondents.

Originally, there were four accused persons, namely Sunder Singh, Ala Singh, Mintu Singh and Pala Singh. Accusations against them were to the effect that they were responsible for the murder of one Indo Bai (hereinafter referred to as "deceased") who was the daughter of A-2 - Ala Singh. Accused respondent-Sunder Singh is the real brother of Ala Singh and Mintu Singh is the son of the latter and Pala Singh was related to Ala Singh being the grandson of Sunder Singh. According to the prosecution, the accused persons took exceptions to the insistence of the deceased in marrying a particular person and in furtherance of their common intention committed murder of the deceased. Report was lodged by Balbir Singh P.W. 16 on the basis that he had overheard in the village that the deceased was murdered and the dead body was disposed of. He lodged a report and after investigation, charge-sheet was placed and the accused persons faced trial for alleged commission of offences punishable under Sections 302 and 201 of the Indian Penal Code, 1860 (for short "the IPC"). They were found guilty and sentence of imprisonment for life and five years rigorous imprisonment were awarded for the aforesaid two offences respectively. Though the prosecution stand was that there were five eye witnesses namely P.W. 3, P.W. 4, P.W. 5, P.W. 6 and P.W. 12 in addition to certain circumstances which established the commission of offence by the accused during trial, P.Ws. 3, 4, 5 and 6 made departure from the versions allegedly given during the investigation. P.W. 12 was disbelieved by the trial court because of inconsistencies in his evidence. Relying on the circumstantial evidence more particularly that the deceased was last seen alive in the house of Sunder Singh, the accused persons Sunder Singh and Mintu Singh were found guilty. However, accused Ala Singh and Pala Singh, A2 and A4 respectively were acquitted by the trial court. In appeal filed by A1 and A3 the High Court held the circumstances highlighted by the prosecution to be not sufficient to warrant a conviction. Additionally, the role of P.W. 16 was also taken note of to hold that the investigation was perfunctory and that added to the vulnerability of the prosecution version.

In support of the appeal, learned counsel submitted that the circumstances highlighted by the prosecution were sufficient to establish the guilt and the High Court has on an erroneous interpretation of the factual position come to hold that the accused persons were innocent. Additionally, it was submitted that merely because there was some remiss on the part of the Investigation Officers, as observed by the High Court, that it was not sufficient to discard the circumstances pointing to the guilt of the accused persons.

It is to be noted that, during the pendency of the appeal before this Court, Mintu Singh A-3 had expired; so the appeal survives only so far as A-1 - Sunder Singh is concerned.

Learned counsel appearing for the accused-respondent submitted that the High Court has rightly discarded the prosecution version to find the accused innocent.

The circumstances which were noticed by the trial court to conclude about the guilt of the two accused persons, according to the High Court were not sufficient to bring home the accusation. In a case where the fate of the trial depends upon circumstantial evidence, a complete chain of circumstances is required to be established and that has not been done in the instant case. Though perfunctory investigation per se cannot affect the credibility of the prosecution case in a given case, yet it was an additional factor which has weighed with the High Court in holding the accused not guilty. The judgment of the High Court is well-reasoned and all the relevant aspects have been taken note of. We do not find this to be a case which calls for our interference.

The appeal, therefore, fails and is dismissed.

.....J
(DORAISWAMY RAJU)

.....J
(ARIJIT PASAYAT)

NEW DELHI;
DECEMBER 04, 2003.