

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 250 of 2008

STATE OF UTTAR PRADESH

Appellant(s)

VERSUS

SATORI @ DILIP KUMAR

Respondent(s)

O R D E R

This appeal arises out of Judgment and Order dated 21st May, 2004 passed by the High Court of Judicature at Allahabad in Criminal Appeal No.1422 of 1981.

The State has called in question the acquittal of the respondent, Satori @ Dilip Kumar, of the charge of having caused the murder of Raj Kumari @ Nanki on 4th September, 1980.

The case of the prosecution is that the deceased was married to Master Bhansi but she had illicit relation with Chandrashekhar Vajpayee, father of the respondent. The respondent was objecting to the relationship and threatened the deceased if she did not mend her ways. On the date of occurrence, when the deceased was talking to Chandrashekhar Vajpayee near his house, the respondent along with co-accused appeared on the scene of occurrence and took out his

country-made pistol and fired. Before doing so, he had abused her which attracted other persons on the spot including PW-3, Chhedi Lal, brother of deceased and PW-4, Santosh Kumar, son of Chhedi Lal. FIR was lodged by PW-3 within two hours of the occurrence. The deceased made a dying declaration to PW-5, Sri Sone Lal, her brother, implicating the respondent-accused.

After considering the evidence on record, the trial court convicted the respondent herein while acquitting the other accused. The High Court has reversed the conviction with the observation that PW-5 stated that PW-3 and PW-4 came to the place of occurrence after the incident and that PW-5 could not also be believed for proving the dying declaration. It was observed that "it was a hit and run night incident".

We have gone through the record and heard learned counsel for the parties. On a perusal of testimony of PW-3 and PW-4, we find that there is no reason to disbelieve the same, particularly, when the said evidence is corroborated by the dying declaration and the statement of PW-5. The observations in the order of the High Court are based on conjecture and surmise and are not supported by the record.

We, accordingly, allow this appeal and set aside the impugned order and restore the judgment and order passed by the trial court. The respondent may be taken into custody to serve out the remaining sentence.

Pending applications, if any, shall also stand disposed of.

.....J.
(ADARSH KUMAR GOEL)

.....J.
(UDAY UMESH LALIT)

New Delhi,
February 15, 2017.

ITEM NO.114

COURT NO.11

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCriminal Appeal No(s). 250/2008

STATE OF U.P.

Appellant(s)

VERSUS

SATORI @ DILIP KUMAR

Respondent(s)

(with office report)

Date : 15/02/2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s) Mr. Adarsh Upadhyay, Adv.

Mr. Amit Singh, Adv.

For Respondent(s) Mr. Ram Lal Roy, Adv.

Mrs. Anjani Aiyagari, Adv.

UPON hearing the counsel the Court made the following

O R D E R

In terms of the signed order, the appeal is allowed.

(MAHABIR SINGH)

COURT MASTER

(Signed order is placed on the file)

(VEENA KHERA)

COURT MASTER