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Cr1.A.No. 909 OF 2004
ITEM No.102 Court No.8

SECTION IIA

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. 909 OF 2004.

SUDHAKAR BALIRAM PATARE

Appellant (s)

VERSUS

STATE OF MAHARASHTRA

Respondent (s)

(With office report)

Date : 04/05/2005 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE P. VENKATARAMA REDDI
HON'BLE MR. JUSTICE P.P. NAOLEKAR

For Appellant (s)Ms.Shipra Ghose,Adv.(AC)

For Respondent (s)Mr.Mukesh K.Giri,Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is dismissed in terms of the signed order.

[Naresh Kumar][Pushap Lata Bhardwaj]
Court Master Court Master

[Signed order is placed on the file.]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 909 OF 2004

SUDHAKAR BALIRAM PATARE Appellant

Vs.

STATE OF MAHARASHTRA Respondent

O_R_D_E_R

The appellant was charged for killing a woman by name Sindhubai with whom he had illicit intimacy by sprinkling kerosene on her body and setting her ablaze on 1.10.1994. The deceased was admitted in the hospital and she succumbed to the burn injuries (which were estimated as 95% by the Medical Officer) on 4.10.1994. The eye-witness who was her daughter turned hostile. The conviction was based on two dying declarations, one recorded by the Head Constable (PW7) on 2.10.1994 at about 9.00 AM and the second by the Executive Magistrate (PW 8) at about 3.00 PM on the same day in the hospital. The evidence of the Executive Magistrate is categorical that the victim was conscious when he recorded her statement. PW 10 was the Medical Officer in charge of the Ward and he appended a certificate on the dying declaration as per Ex.33A. The deceased had given the account of the incident and the manner in which she was killed. Both the trial court as

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well as the High Court have placed implicit reliance on the dying declaration recorded by the Executive Magistrate. We find no reason to take a different view. No infirmities are pointed out which affect the veracity or genuineness of the dying declaration. The contention that the appellant could not have been conscious and fit to make the statement in view of the administration of drugs was rejected by the High Court giving cogent reasons. We are therefore of the view that the conviction is justified. The appeal is hereby dismissed.

.....J.
(P. VENKATARAMA REDDI)

.....J.
(P.P. NAOLEKAR)
New Delhi,
4th May, 2005.