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Cr1.A.No. 902 OF 1998

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.902 OF 1998

State of Madhya PradeshAppellant

Versus

Gabbar SinghRespondent

With
Criminal Appeal No.903/1998 (State of M.P. vs. Karan Singh)

O R D E R

The respondents in these two appeals were tried by the Third Additional Sessions Judge, Sagar, Madhya Pradesh for the offences punishable under Sections 395, 397 and 296 IPC and sentenced them to undergo imprisonment for life. No separate sentence was awarded for the offence punishable under Sections 395 and 397 IPC. In appeal filed by the respondents herein, the High Court of Madhya Pradesh at Jabalpur Bench allowed the same by setting aside the conviction and sentence imposed on the respondents. The State of Madhya Pradesh is before us in these appeals. The brief facts necessary for the disposal of these appeals are that during the course of the alleged decoity committed on 16th of April, 1981 in the house of Karan Singh, PW.7, the respondents herein along with some others committed the murder of Gulab Rani mother of PW.7 and an infant Pappu aged about 4 months son of PW.7 apart from looting cash from the house of PW.7.

A complaint in this regard was lodged on the very same day in the Police Station Malthone by PW.7 where names of the accused persons were not mentioned. It is the case of the prosecution that on 8th of January, 1986 nearly five years later respondent, Gabbar Singh surrendered and was remanded on 17th of January, 1986 to custody while other respondent Karan Singh was allegedly arrested on 20th of May, 1986 to custody. The prosecution relies upon the test identification parade held on 16th May, 1986 even prior to the date of arrest of Karan Singh, the other respondent herein. The High Court taking note of this discrepancy disbelieved the prosecution case allowed the appeal by setting aside the conviction and sentenced imposed on the respondents herein.

We have heard Shri Siddhartha Dave, learned counsel for the appellant-State and having perused the records, we notice that the identification parade in this case also cannot be believed. There were no recoveries from the respondents and the respondents' names were not even shown in the FIR. For all these reasons, we are in agreement with the finding of the High Court, hence, these appeals fail and the same are dismissed.

.....J.
(N. SANTOSH HEGDE)

.....J.
(B.P. SINGH)

NEW DELHI,
APRIL 20, 2004.

ITEM No.104

Court No.4

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.902 of 1998

STATE OF M.P. Appellant (s)

VERSUS

STATE OF GABBAR SINGH

Respondent (s)

(with office report)

With Crl. Appeal No.903/1998 (with office report)

Date : 20/04/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE

HON'BLE MR. JUSTICE B.P. SINGH

For Appellant (s)Mr. Siddhartha Dave, Adv.
Ms. Kamakshi S. Mehlwal, Adv.

For Respondent (s)Ms. Mridula Ray Bhardwaj, Adv.

UPON hearing counsel the Court made the following

O R D E R

Learned counsel for the parties argued the matter for half an hour.
The appeals are dismissed in terms of the signed order.

(PAWAN KUMAR)

(PREM PRAKASH)

COURT MASTER

COURT MASTER

(signed order is placed on the file)