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Cr1.A.No. 336 OF 2000

Item No.101

Court No. 10

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. 336 of 2000@@  
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Syed Zulfikar Hussain

Appellant (s)

Versus

State of Bihar

Respondent (s)

( With appln. for taking additional document on record and with  
Office Report )

Dated: 06/08/2002: This matter was called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE Y.K. SABHARWAL  
HON'BLE MR. JUSTICE H.K. SEMA

For Appellant (s) Mr. MP.Verma, Sr.Adv.  
Mr. Vishal Malik, Adv.  
Mr. MD. Pandey, Adv.  
Mrs. Anita Pandey, Adv.  
Mr. AN. Choudhary, Adv.  
Mr. MS. Dahiya, Adv.

For Respondent (s) Mr. BB. Singh, Adv.  
Kumar Rajesh Singh, Adv.

UPON hearing counsel the Court made the following  
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Application for taking additional documents on record  
is allowed.

Mr. M.P. Verma, the learned senior counsel commenced  
arguments at 10-40 and concluded his arguments at 11-10 a.m.  
Hearing concluded.

The appeal is dismissed.

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(S.Thapar)

(V.P. Tyagi) @@

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PS to Registrar

Court Master@@

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The signed order is placed on the file.

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 336 OF 2000@@  
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Syed Zulfikar Hussain

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O R D E R@@  
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Four accused, according to the case of prosecution, were booked for offence under Section 302/34 of the Indian Penal Code and Section 9(b) of the Explosive Substances Act. Two of them including the appellant were charged and tried in Sessions Trial No.147 of 1986 by the learned Additional Sessions Judge. They were convicted and sentenced for life imprisonment for offence under Section 302/34 IPC and for offence under Section 9(b) rigorous imprisonment of two years was imposed in terms of the judgment dated 18th December, 1987 passed by the Additional Sessions Judge. One of the accused, namely, Arjun Rajvanshi who was absconding was later apprehended and on the basis of supplementary charge sheet cognizance was taken and he was tried in a separate Sessions Case No.103 of 1990. He was also convicted and sentenced in the same manner as the appellant. However, his appeal was allowed by the High Court.

In this appeal we are, however, concerned with the case against the sole appellant. The conviction and sentence of the appellant under Section 302/34 of the Indian Penal Code was confirmed by the High Court by the impugned judgment. The conviction and sentence of the other accused who was tried with the appellant was also confirmed. It does not, however, appear that he has filed any appeal against the impugned judgment.

The High Court on appreciation of the ocular testimony of P.W.1, P.W.2 and P.W.4 has confirmed the conviction and sentence imposed by the trial court. While examining the case, the High Court was alive of the position that the eye-witnesses being relations, their evidence had to be scrutinized with much care and caution.

Soon after the incident, it was reported to the police and investigation ensued. The testimony of the eye-witnesses P.W.1, P.W.2 and P.W.4 appears to be credible and trustworthy. The mere fact that they were relations is of no consequence. Regarding the motive, the deceased has contested the election of village mukhiya against the appellant wherein the appellant lost. Be that as it may, on the eye-witnesses being believed

the aspect of motives looses much of the string. The fact that the bundle of paddy which P.W.1 was carrying was not seized and examined by the prosecution, is no consequence. On appreciation of evidence, both the Courts have come to the conclusion that it was the appellant on whose asking the bomb was hurled on the deceased. We see no reason to disbelieve the evidence of the eye-witnesses. There is also on record the corroboration in the form of medical evidence. There is no substance in the appeal. It is accordingly dismissed.

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.....J  
(Y.K. Sabharwal)

New Delhi,  
August 6, 2002

.....J  
(H.K. Sema)