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Cr1.A.No. 1079 OF 1997

ITEM No.102

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.1079 of 1997

State of M.P. Appellant.

VERSUS

Nand Kishore Respondent.

(With office report)

Date : 11/02/2004: This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant (s) Mr. Siddharth Dave, Adv.
Mrs. Kamakshi S. Mehlwal, Adv.

For Respondent (s) Mr.Naveen Sharma, Adv.
Mr. B.K. Satija, Adv.
Mr. B.S. Banthia, Adv.(N.P.)

UPON hearing counsel the Court made the following
O R D E R

Mr.Siddharth Dave, learned counsel for the appellant started his arguments at 11.10 a.m. and concluded at 11.55 a.m.
The appeal is dismissed in terms of the signed order.

(R.K. DHAWAN) (VEERA VERMA)
COURT MASTER COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1079 OF 1997

State of M.P..... Appellant.

Versus

Nand Kishore Respondent.

O R D E R

The appeal is directed against the judgment of the Division Bench of the High Court of Madhya Pradesh at Jabalpur. The respondent Nand Kishore was tried along with his parents for the offence punishable under Section 302 IPC, alleging that he caused the death of his wife Sarita Bai. The Sessions Judge found the respondent guilty of the offence charged against him but acquitted his co-accused. The respondent filed appeal before the High Court and the High Court was pleased to acquit the respondent. Against the order, the present appeal is filed by the State.

We heard the learned counsel for the State and counsel for the respondent.

Deceased Sarita Bai was staying with the respondent during the relevant time and it seems there was some dispute regarding the dowry and it is alleged that the respondent and his parents had been demanding twenty-five thousand rupees from the parents of the deceased Sarita Bai. On 12th May, 1985, deceased Sarita Bai was found hanging

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with a sari tied around her neck in the up stair of the house in a room where the accused and the deceased were staying. Second accused Vallabh Das informed the neighbours that his daughter-in-law had committed suicide and he informed the police and PW-12 Sub-inspector came to the scene of occurrence and held inquest and the body was sent for postmortem examination. Dr. Permanad Agrawal PW-8 conducted the postmortem examination and he found that certain ligature marks but according to him they were postmortem injuries, there was no extra-vasation of blood around the tissues of neck and lips and nails were found bluish. The Viscera was collected and sent for chemical examination and chemical examination report showed the presence of Organophosphorous compound (pesticide) and the doctor later opined that the deceased must have died due to consumption of the said poison.

The High Court acquitted the accused mainly on the ground that it was quite possible that the deceased must have consumed poison and committed suicide. There was no marks of violence on the body of the deceased to indicate that the poison was administered to her forcibly. The High Court was of the view that the accused when realised that Sarita Bai had committed suicide must have tried to create evidence to show that she must have committed suicide by hanging. However, the fact remains that there is no direct

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evidence to prove the complicity of the present for the offence of murder. Doctor was of the view that the pesticide by trade name 'Ekalax' was the poison found in viscera of the deceased. It is difficult to assume that the respondent forcibly administered this poison to the deceased.

Having regard to the facts and circumstances of the case, we are of the view that the High Court has taken a plausible view and we do not think it is a fit case to interfere with the acquittal passed by the High Court. The appeal is dismissed accordingly.

.....J
(K.G. BALAKRISHNAN)

.....J
(B.N. SRIKRISHNA)

NEW DELHI;
FEBRUARY 11, 2004.