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Cr1.A.No. 914 OF 1995

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ITEM No.105

Court No. 11

SECTION II

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. 914/1995@@

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State of Rajasthan

Appellant

VERSUS

Ram Niwas

Respondent

(With appl.(s) for exemption from filing O.T. and exemption
from filing O.T.)

Date : 07/02/2002 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.P.SETHI

HON'BLE MR. JUSTICE K.G.BALAKRISHNAN

For Appellant (s)

Mr. K.L. Janjani,Adv.

Mr. Nischal Kumar Neeraj,Adv.

Mr. Pankaj Kr. Singh,Adv.

Mr. Javed Mahmud Rao,Adv.

For Respondent (s)

Mr. Ravindra Bana, Adv.

UPON hearing counsel the Court made the following

O R D E R

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.SP2

Mr. K.L. Janjani,Adv. for the appellant - State
argued from 12.55 p.m. to 03.10 p.m.

Arguments concluded.

The appeal is dismissed in terms of the signed order.

.SP1

Anita

(V.P.Tyagi)

Court Master

(Signed order is placed on the file.)

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.PL58

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 914 OF 1995@@

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State of Rajasthan

... Appellant

The learned counsel appearing for the appellant-State has taken us through the statement of PW-2 and DW-2. We also feel that the view taken by the trial court cannot be termed to be perverse or uncalled for. The mere possibility of our taking different view cannot be a ground for interfering with the order of acquittal of the trial court. This court has held in Kalyan & Ors. vs.@@
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State of U.P. 2001 (6) SCALE 556:-@@
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8."The settled position of law on the powers to be exercised by the High Court in an appeal against an order of acquittal is that though the High Court has full powers to review the evidence upon which an order of acquittal is passed, it is equally well settled that the presumption of innocence of the accused persons, as envisaged under the criminal jurisprudence prevalent in our country is further reinforced by his acquittal by the trial court. Normally the views of the trial court, as to the credibility of the witnesses, must be given proper weight and consideration because the trial court is supposed to have watched the demeanour and conduct of the witness and is in a better position to appreciate their testimony. The High Court should be slow in disturbing a finding of fact arrived at by the trial court. In Kali Ram v. State of Himachal Pradesh (AIR 1973 SC 2773) this Court observed that the golden thread which runs through the web of administration of justice in criminal case is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. The court further observed:

"It is no doubt true that wrongful acquittals are undesirable and shake the confidence of the people in the judicial system, much worse, however, is the wrongful conviction of an innocent person. The consequences of the

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conviction of an innocent person are far more serious and its reverberations cannot but be felt in a civilised society. Suppose an innocent person is convicted of the offence of murder and his hanged, nothing further can undo the mischief for the wrong resulting from the unmerited conviction is irretrievable. To take another instance, if an innocent person is sent to jail and undergoes the sentence, the scars left by the miscarriage of justice cannot be erased by any subsequent act of expiration. Not many persons undergoing the pangs of wrongful conviction are fortunate like Dreyfus to have an Emile Zola to champion their cause and succeed in getting the verdict of guilt annulled. All this highlights the importance of ensuring, as far as possible, that there should be no wrongful conviction of an innocent person. Some risk of the conviction of the innocent, of course, is always there in any system of the administration of criminal justice. Such a risk can be minimised but not ruled out

New Delhi,
February 7, 2002.

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