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Cr1.A.No. 1055 OF 1998

PART-HEARD

ITEM No.101

Court No. 10

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. 1055 of 1998

RAJDEO RAI Appellant (s)

VERSUS

STATE OF UTTAR PRADESH & ORS.Respondent (s)

Date : 25/03/2004 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant (s)Mr. M.P. Verma,Sr.Adv.
Mr. Sudama Ojha,Adv.
Dr. Maya Rao,Adv.

For Respondent (s)Mr. C.D. Singh,Adv.
Mr. Kamlendra Mishra,Adv.

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

Heard the learned counsel for the parties from 10.35 a.m. to 11.15 a.m.

The criminal appeal is dismissed.

Bail bonds of the appellant, who is on bail, are cancelled and he is directed to be taken into custody forthwith for undergoing remaining period of sentence.

[T.I. Rajput] [Kanwal Singh]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1055 OF 1998

Rajdeo Rai ...Appellant(s)

Versus

O R D E R

Heard the learned counsel for the parties.

The appellant, Bharat Tiwari and Rama Singh [Respondent Nos.2 and 3 herein] and Ghanshyam Tiwari and Vashisht Tiwari were made accused in a case filed under Section 302 of the Indian Penal Code [for short, "I.P.C."]. As Ghanshyam Tiwari and Vashisht Tiwari were absconding, the case of the appellant and Respondent Nos.2 and 3 were separated and they were tried for offences under Sections 302/149, 147 and 148 I.P.C. The trial court, by judgement dated 22nd May, 1980, acquitted all the aforesaid three accused persons. On appeal, being preferred by the State of Uttar Pradesh, the High Court of Allahabad upheld the order of acquittal relating to Respondent Nos.2 and 3 but reversed the order of acquittal of the appellant, convicted him under Section 302 read with Section 34 I.P.C. and sentenced to undergo imprisonment for life. Hence, this appeal by special leave.

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Mr. M.P. Verma, learned senior counsel appearing in support of the appeal, strenuously contended that the High Court was not justified in reversing the order of acquittal of the appellant recorded by the trial court as the same cannot be said to be perverse in any manner.

We have gone through both the judgements of the High Court and the trial court and we feel that the trial court acquitted the appellant on minor points which ought not to have been taken to be a ground for recording the acquittal of the appellant. The High Court, while reversing the order of acquittal, has placed reliance upon the evidence of P.Ws. 1, 2 and 3, who claimed to be eye witnesses of the alleged occurrence, as these witnesses have consistently supported the prosecution case. Further, the prosecution case disclosed in the First Information Report is corroborated by the medical evidence as the doctor has found injuries by fire arm on the deceased. Having given our anxious consideration to the matter, we are of the view that the High Court has not committed any error in passing the impugned order, as such no interference therewith is called for.

The criminal appeal is dismissed accordingly.

Bail bonds of the appellant, who is on bail, are cancelled and he is directed to be taken into custody forthwith for undergoing remaining period of sentence.

.....J.

[B.N. AGRAWAL]

.....J.

[Dr. AR. LAKSHMANAN]

New Delhi,
March 25, 2004.