

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(s). 695 OF 2004

FAROOQ

Appellant (s)

VERSUS

STATE OF M.P.

Respondent(s)

(With office report)

Date: 26/04/2005 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE H.K. SEMA

For Appellant(s)

Mr. Dhruv Mehta, Adv.

Mr. Mohit Chaudhary, Adv.

Mr. Harshvardhan Jha, Adv.

for M/s. K.L. Mehta & Co., Adv.

For Respondent(s)

Mr. C.D. Singh, Adv.

Dr. Indra Pratap Singh, Adv.

Mr. R.K. Singh, Adv.

Mr. Sanjay Kumar Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

The appeal is allowed, conviction and sentence of the appellant are set aside and he is acquitted of the charge. The appellant, who is in custody, is directed to be released forthwith, if not required in connection with any other case.

[Alka Dudeja]

[Phoolan Wati Arora]

Court Master

Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 695 OF 2005

Farooq

...Appellant (s)

Versus

State of Madhya Pradesh

...Respondent(s)

O R D E R

Heard learned counsel for the parties.

The sole appellant, along with four other accused persons, namely, Suleman,

Sheikh Mohammed, Indreesh and Nafees @ Bhai Sahib, was tried and by judgment

rendered by the Trial Court, while other four accused persons were acquitted, the appellant

was convicted under Section 302 of the Indian Penal Code and sentenced to undergo

imprisonment for life. Against the order of acquittal, no appeal was preferred; whereas

conviction of the appellant was confirmed by the High Court in appeal preferred by him.

Hence, this appeal by special leave.

Undisputedly, in the present case, P.W.6-Munna Singh is the sole eye witness. He

is brother of the deceased. Animosity is admitted. So far as P.W.3-Gulzar Lal, P.W.4-

Nathu Ram and P.W.7-Desh Raj are concerned, immediately after the occurrence P.W.6 met

all these three persons, but he did not disclose that the appellant fired at the deceased. That

apart, P.W.6 went to the hospital in jeep with the police personal and neither he disclosed

the name of the appellant to the police either at the spot or on way to the hospital, but the

name of the appellant was disclosed for the first time before the doctor. These facts have

been taken into consideration by the Trial Court in great detail and in spite of these grounds,

which were applicable to

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all the accused persons, the Trial Court acquitted other accused persons, but convicted the

appellant. In our view, the Trial Court was quite justified in acquitting other accused

persons, but was not justified in distinguishing the case of the appellant, as evidence of

P.W.6, even according to the reasoning of the Trial Court, was fit to be disbelieved with

regard to all the accused persons. This being the position, we are of the view that the

prosecution has failed to prove its case beyond reasonable doubt and the High Court was not justified in upholding conviction of the appellant.

The appeal is, accordingly, allowed, conviction and sentence of the appellant are

set aside and he is acquitted of the charge. The appellant, who is in custody, is directed to

be released forthwith, if not required in connection with any other case.

J.

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(B.N. Agrawal)

J.

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(H.K. Sema)

New Delhi,

April 26, 2005.