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CrI.A.No. 515 OF 1999

ITEM NO.101

(Part-Heard)

COURT NO.11

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CRIMINAL APPEAL NO. 515 OF 1999

SRI PAL

VERSUS

Appellant (s)

STATE OF U.P.

Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned judgment  
and office report )

WITH CRIMINAL APPEAL NO. 516 of 1999

(With exemption from filing O.T.)

Date: 22/09/2004 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE C.K. THAKKER

For Appellant(s) Mr.K.B. Sinha, Sr.Adv.

Mr. Rohit Pandey,Adv.

Mr. D.K. Gupta,Adv.

Mr. N.P.Midha,Adv.

Mr. Manzoor Ali Khan,Adv.

Mr. Dinesh Kumar Garg,Adv.

Mr. R.C. Kaushik

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

Mr. Jatinder Kumar Bhatia,Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal filed by Ram Snehi, i.e. Criminal Appeal No.516 of 1999 is dismissed. The appeal filed by Sri Pal, i.e. Criminal Appeal No.515 of 1999 is allowed. The bail bonds of Sri Pal s hall be discharged as he was released on bail. Accused Ram Snehi shall surrender to custody forthwith to serve remainder of sentence.

(Neena Verma) (Vijay Aggarwal)

Court Master

Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.515 OF 1999

Sri Pal

...Appellant

Versus

State of Uttar Pradesh

...Respondent

W I T H

Criminal Appeal No.516 of 1999

O R D E R

These two appeals, Criminal Appeal Nos.515 of 1999 and 516 of 1999 are directed against the judgment rendered by a Division Bench of the High Court of Allahabad in Criminal Appeal No.70 of 1979. Both the appellants Sri Pal and Ram Snehi, who were accused Nos. 1 and 2 before the Trial Court, faced trial for allegedly having committed homicidal death of Smt. Shanti Devi (hereinafter referred to as the 'deceased'), who was the wife of accused-appellant Ram Snehi. The dead body of Smt. Shanti Devi was found on the morning of 16.02.1976. Initially, report was lodged by accused Sri Pal indicating that Smt. Shanti Devi had committed suicide. While action was yet to be taken on the report, father of the deceased PW-1 lodged a report to the effect that deceased had not committed suicide but was murdered by the present appellants and two others i.e. Smt. Mahesha, mother of the appellants and Smt. Usha Devi, wife of appellant Sri Pal. Investigation was undertaken and on completion thereof, chargesheet was placed against the four accused persons. The Trial Court found that the evidence was sufficient to fasten guilt on the present appellants for offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860 (in short the 'IPC'). However, benefit of doubt was given to A-3 and A-4. The appellants questioned their conviction and the life sentence imposed before the High Court of Allahabad, which, by the impugned judgment, as noted above, dismissed the appeal and confirmed the conviction and sentence imposed.

In support of the appeal, it has been contended by Sri Pal that there was no evidence to bring in application of Section 34 IPC so far as he is concerned. What appears to have weighed with the courts below is his earlier effort to bring back the deceased to live with her husband, appellant Ram Snehi. The other factor which has considerably weighed with the courts below is the First Information Report given by him to the effect that the deceased had committed suicide. So far as appellant Ram Snehi is concerned, his stand is that he was working at a different place and the materials produced clearly established that at the time of occurrence, he was at the place of work. His alibi has been unjustifiably discarded by both the courts below. It has also been submitted that no witness has spoken about his presence in the house at the time of occurrence and a presumption has been drawn that he was present along with the other three persons who were arrayed as accused persons.

We have considered the materials placed on record. We find that the Trial Court and the High Court were justified in finding accused Ram Snehi guilty. His conviction, therefore, stands.

So far as the appellant Sri Pal is concerned, the material is not sufficient to come to a definite conclusion about his alleged role to bring in application of Section 34 IPC to the facts of the case.

In the circumstances, while we dismiss the appeal filed by Ram Snehi, the appeal filed by Sri Pal is allowed. The bail bonds of Sri Pal shall be discharged as he was released on bail. Accused Ram Snehi shall surrender to custody forthwith to serve remainder of sentence. The appeals are accordingly disposed of.

.....J.

( ARIJIT PASAYAT )

.....J.

( C.K. THAKKER )

New Delhi,  
September 22, 2004.