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Crl.A.No. 26-27 OF 1999
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.26-27 OF 1999

State of U.P.Appellant

Versus

Ram SaranRespondent

O R D E R

The respondent herein was charged for an offence punishable under Section 302 and 201 IPC for having committed the murder of his wife Shivlali in the intervening night 2nd and 3rd May, 1990 in his house situated in Mill Area, Rai Bareilly District. The trial court which found the appellant guilty imposed death sentence on the appellant while under Section 201 IPC finding no material acquitted him. In an appeal filed against the conviction and sentence by the respondent herein before the High Court of Judicature at Allahabad, Lucknow Bench came to be allowed the appeal by setting aside the conviction and sentence imposed by the trial court. It is against the said order the State of U.P. is before us in this appeal.

Brief facts necessary for the disposal of this appeal are that the accused was married to one Shivlali who was suffering from Tuberculosis and according to the prosecution was also not good looking, therefore, the accused sent her back to her maternal home. A few days prior to the date of incident it is stated that PW.4 brought the deceased to the house of the accused and left her there. It is the further case of the prosecution that on 3rd May, 1990 the brother of the deceased found the dead body of the deceased in the house of the accused and lodged a complaint with the Police that deceased had committed suicide. On coming to know of her daughter's death PW.1, the mother came to the house of the accused and having heard certain rumours about the accused lodged a complaint that her daughter was murdered by the accused. Postmortem report shows that the deceased's death is not by hanging but due to strangulation. It is on the said basis a chargesheet was filed. The trial court relying on the medical evidence, that of PW.1 and relying on the certain circumstances came to the conclusion that the accused is guilty of the murder and punished him as stated above. In appeal the High Court has taken a different view and set aside the said conviction and sentence.

We have heard learned counsel for the parties and perused the records. From the material on record we notice that the only circumstance that could be held against the accused is the fact that body of the deceased was found in the house of the accused. That apart there is no material to show that the accused was also in the house. As a matter of fact none of the relatives who gave evidence on behalf of the prosecution like Pws.2, 4 and 5 who are brothers and sisters of the deceased have supported the case of the prosecution. Prosecution case is only supported by evidence of PW.1 mother who of course not a witness to the incident and her evidence is purely based on suspicion and hearsay. Even though the medical evidence proves that the death of deceased was caused by strangulation and not by hanging. In the absence of evidence against the accused we are unable to agree with the learned counsel for the State that the prosecution has established its case against the respondent accused.

We are in agreement with the finding of the High Court that the circumstances relied on by the trial court are such circumstances which are not proved or circumstances which do not conclusively established the guilt of the accused.

For the reasons stated above, these appeals fail and the same are dismissed.

.....J.
(N. SANTOSH HEGDE)

.....J.
(B.P. SINGH)

.....J.

(DR. AR. LAKSHMANAN)
NEW DELHI,
APRIL 28, 2004.
ITEM No.101

Court No.3

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.26-27 OF 1999

STATE OF U.P. Appellant (s)

VERSUS

RAM SARAN Respondent (s)

Date : 28/04/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE B.P. SINGH
HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant (s)Mr. Prashant Choudhary, Adv.
Mr. J.K. Bhatia, Adv.

For Respondent (s)Mr. B.B. Singh, Adv.

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

The appeals fail and the same are dismissed in
terms of the signed.

(PAWAN KUMAR) (PREM PRAKASH)
COURT MASTER COURT MASTER
(signed order is placed on the file)