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ITEM NO.106

COURT NO.8

SECTION II

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

I N D I A

CRIMINAL APPEAL NOS. 1018-1019/2004

STATE OF RAJASTHAN

APPELLANT(S)

VERSUS

MATHURA & ANR.
(WITH OFFICE REPORT)

RESPONDENT(S)

Date : 15/07/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE N.V. RAMANA

For Appellant(s)

Mr. S.S. Shamsbery, AAG
Mr. Amit Sharma, Adv.
Mr. Sandeep Singh, Adv.
Mr. Milind Kumar, Adv.
For Ms. Ruchi Kohli, Adv.

For Respondent(s)

Mr. Varun Thakur, Adv.
Mr. Varinder Kumar Sharma, Adv.

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

The appeals are dismissed in terms of the signed
order.

[VINOD LAKHINA]
COURT MASTER

[ASHA SONI]
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

Signature Not Verified

Digitally signed by
Vinod Lakhina
Date: 2015.07.16
15:45:42 IST
Reason:

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IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.1018-1019 OF 2004

STATE OF RAJASTHAN

...APPELLANT

VERSUS

ORDER

1. These appeals by the State of Rajasthan challenge the order of acquittal by the High Court of Rajasthan in reversal of the conviction of the accused respondents under Sections 302 and 201 of the Indian Penal Code, 1860.

2. We have heard Mr. S.S. Shamsbery, learned AAG, Rajasthan and Mr. Varun Thakur, learned counsel for the respondents.

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3. The case of the prosecution is built entirely on circumstantial evidence. The circumstances relied upon by the prosecution as found by the High Court are summarized herein below:

- (i) Extra judicial confession made by the accused.
- (ii) The recovery of the dead body of Lumba Ram at the instance of the accused.
- (iii) The recovery of the incriminating articles at the instance of the accused.
- (iv) The recovery of alleged weapon of offence at the instance of the accused.
- (v) Writing of letters to mislead the family of the deceased.

(vi) Motive i.e. illicit relationship between accused appellant No.1, who was the wife of the deceased and accused No.2.

4. The High Court held each of the circumstances to be of doubtful credibility except the circumstance relating to the recovery of the dead body. The conclusion of the High Court on the aforesaid score is based on a consideration of the evidence.

5. Keeping in mind the limited scrutiny that would normally be permissible in an appeal against acquittal and having regard to the evidence on record, we cannot take the view that the conclusion reached by the High Court is an impossible conclusion. Insofar as the solitary

circumstance held to be proved against the accused is concerned, the same can not conclusively prove the guilt of the accused in a case which is sought to be built up on circumstantial evidence alone. We, therefore,

can not find any fault with the order of acquittal passed by the High Court. The appeals filed by the State, therefore, are devoid of merit and are consequently dismissed.

.....,J.
(RANJAN GOGOI)

.....,J.
(N.V. RAMANA)

JULY 15, 2015