

0

SLP(Crl.)No. 6809 OF 2001
ITEM No.38

Court No. 6

SECTION II
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No. 6809/2001

(From the judgement and order dated 30/11/2000 in SBCLA 303/2000
of The HIGH COURT OF RAJASTHAN AT JODHPUR)

MOHAMMED ANWAR

Petitioner (s)

VERSUS

SHOKAT ALI &ORS.

Respondent (s)

(With Appln(s). for c/delay in filing SLP)

Date : 11/02/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s) Mr. Vikash Sharma, Adv. for
Mr. K.S. Bhati, Adv.

For Res No.1-5 Ms. Madhurima Tatia, Adv. for
Mr. Indra Makwana, Adv.

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

...L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

Delay condoned.
Leave granted.
Heard the learned counsel for the parties.

The appeal is allowed and the impugned order passed by
the High Court refusing to grant leave is set aside in terms of
the signed order. The matter is remitted to the High Court for
deciding the same on merits.

.SP1

(D.L. Chugh)
Court Master

(K.K. Chadha)
Court Master

Signed order is placed on the file

.PA

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.235 OF 2002@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC
(Arising out of SLP(Crl) No.6809 of 2001)

Mohammed Anwar 0

.... Appellant

VERSUS

Shokat Ali & Ors.

....Respondents

O R D E R@@
CCCCCCCC

.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

Leave granted.

Heard the learned counsel for the parties.

The case was tried for the offences punishable under Sections 452, 147, 148, 323, 324, 325, 326 and 504 read with 149 IPC. To decide whether the acquittal order was justified or not, evidence of the injured witness ought to have been appreciated by the High Court before refusing to grant leave to appeal. The High Court has merely stated that there are contradictions in the depositions of witnesses and, therefore, the trial court has rightly given the benefit of doubt to the respondents. In such matters, it was the duty of the Appellate Court to appreciate the evidence of injured witnesses before discarding their evidence on the basis of so-called contradictions. Hence, in our view, this was a fit case for granting leave to appeal.

In this view of the matter, the appeal is allowed and the impugned order passed by the High Court refusing to grant leave is set aside. The matter is remitted to the High Court for deciding the same on merits.

.SP1

.....J.@@
BBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBB
(M.B. SHAH)@@
BBBBBBBBBBBB

.....J.@@
BBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBBB
(B.N. AGRAWAL)@@
BBBBBBBBBBBBBBBB

New Delhi,
February 11, 2002