

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. 850 OF 2000

PRADEEP SHARMA

Appellant (s)

VERSUS

STATE OF M.P.

Respondent(s)

(With appln(s) for exemption from filing O.T. and office report)

Date: 27/04/2006 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE D.K. JAIN

For Appellant(s)

Mr. S.B. Sanyal, Sr. Adv.

Mr. Prakash Shrivastava, Adv.

For Respondent(s)

Mr. Rajeev Sharma, Adv.

Mr. C.D. Singh, Adv.

Mr. Dhruvad Kashyap, Adv.

Ms. Kiran Suvarna, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

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The appeal is allowed, convictions and sentences of the appellan  
is set aside and he is acquitted of the charges. The appellant, who is on b  
ail,  
is discharged from the liability of bail bonds.

[ Alka Dudeja ]

Court Master

[ Om Prakash ]

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 850 OF 2000

Pradeep Sharma

...Appellant(s)

Versus

State of Madhya Pradesh

...Respondent(s)

O R D E R

Heard learned counsel for the parties.

There were four accused before the trial court. The  
appellant, along with accused-Om Prakash Malviya and Brijesh

Kumar Sen were convicted by the trial court under Section 302 read with Section 34 of the Indian Penal Code [for short, 'I.P.C.'] and sentenced to undergo imprisonment for life and to pay fine of Rs.2,000/-; in default to undergo rigorous imprisonment for a period of one year. They were further convicted under Section 460 I.P.C. and sentenced to undergo imprisonment for life. These accused persons were also convicted under Section 394 I.P.C. and sentenced to undergo rigorous imprisonment for a period of ten

....2/-

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years and to pay fine of Rs.2,000/-; in default to undergo rigorous imprisonment for a period of one year. These accused persons along with accused-Anil Kumar Malviya were also convicted under Section 120B I.P.C. and were sentenced to undergo imprisonment for life. On appeals being preferred by all the four accused persons, including the appellant, accused-Anil Kumar Malviya and Om Prakash Malviya have been acquitted of all the charges. So far as accused-Brijesh Kumar Sen is concerned, his convictions recorded by the trial court have been set aside and he has been convicted under Section 411 I.P.C. and sentenced to the period already undergone. So far as the appellant is concerned, his conviction under Section 120B I.P.C. has been set aside;

whereas other convictions recorded by the trial court upheld.

Hence, this appeal by special leave.

In the present case, there is no direct evidence, but it is a case of circumstantial evidence. The conviction of the appellant is based upon the solitary circumstance that gun, along with cartridges, belonging to the deceased were recovered from possession of the appellant. This recovery was made after ten months from the date of the alleged occurrence. That apart, this circumstance alone, in our view, cannot form the basis of conviction. It is well settled that in a case of circumstantial evidence there must be complete chain of circumstances leading to only one irresistible conclusion, which is incompatible with the innocence of the accused. This being the position, we are of the view that the High Court was not justified in upholding convictions of the appellant.

....3/-

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Accordingly, the appeal is allowed, convictions and sentences of the appellant are set aside and he is acquitted of the charges. The appellant, who is on bail, is discharged from the liability of bail bonds.

.....J.

[B.N. AGRAWAL]

.....J.

[D.K. JAIN]

New Delhi,

April 27, 2006.