

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 1290-1291 OF 2005

SATYAJIT HAZARI ETC.

APPELLANT(S)

VERSUS

THE STATE OF ASSAM

RESPONDENT(S)

O R D E R

1. We have heard learned counsel for both sides.

2. We find that the trial and the conviction proceeded on a fatal flaw that the contraband, for the possession of which the appellants had been prosecuted and convicted has itself not been produced before the Court as material object. Consequently, neither the attention of the accused was adverted to the said contraband nor the Court has had any opportunity to see the contraband which is allegedly found in the appellants' possession. Such flaw on the prosecution side is discussed in the

case of Gorakh Nath Prasad v. State of Bihar

(Criminal Appeal No. 2104 of 2017) decided on 05.12.2017.

3. Learned counsel for the respondent submitted that there is a mention to this effect in the Malkhana Register. Shri Nikhil Goel, learned counsel for the appellants pointed out that even this Register was not produced before the Court. In any case, we find that an entry in the Malkhana Register cannot be a substitute of producing the contraband before the Court as a material object. The judgment and order passed by the High Court is, therefore, set aside.

4. Since appellant-Stayajit Hazari (Criminal Appeal No. 1290/2005) is on bail, his bail bonds shall stand discharged.

5. The appellant Rabindra Singha (Criminal Appeal No. 1291/2005), who was released earlier vide order dated 04.02.2016 and was taken into custody pursuant to

order dated 21.09.2017, shall be released forthwith, if not required in any other case.

6. Accordingly, the appeals are allowed.

.....J.
[S.A. BOBDE]

.....J.
[L. NAGESWARA RAO]

NEW DELHI,
FEBRUARY 15, 2018.

ITEM NO.103

COURT NO.7

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 Nos. 1290-1291/2005

SATYAJIT HAZARI ETC.

Appellant(s)

VERSUS

THE STATE OF ASSAM

Respondent(s)

Date : 15-02-2018 These appeals were called on
for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Appellant(s) Mr. Nikhil Goel, Adv.
Ms. Naven Goel, Adv.
Mr. Ashutosh Ghade, Adv.
Mrs. Sheela Goel, AOR

For Respondent(s) Mr. Debojit Borkakati, AOR
Mr. M. Balashivudu, Av.

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

The appeals are allowed in terms of the signed order.

Since appellant-Stayajit Hazari (Criminal Appeal No. 1290/2005) is on bail, his bail bonds shall stand discharged.

5. The appellant Rabindra Singha (Criminal Appeal No. 1291/2005), who was released earlier vide order dated 04.02.2016 and was taken into custody pursuant to order dated 21.09.2017, shall be released forthwith, if not required in any other case.

[Charanjeet Kaur]
A.R.-cum-P.S.

[Indu Kumari Pokhriyal]
Asstt. Registrar

[Signed order is placed on the file]