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CrI.A.No. 695 OF 1998

ITEM No.106

Court No.9

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 No.695 of 1998

State of U.P. Appellant.

VERSUS

Madan Lal & Anr. Respondents

Date : 29/04/2004: This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant (s) Mr. Javed M. Rao, Adv.  
Mr. J.K. Bhatia, Adv.

For Respondent (s) Mr. P.K. Jain, Adv.

Mr. M.C. Dhingra, Adv.

Mr. R.K. Bhatt, Adv.

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

Heard learned counsel for the parties for half an  
hour.

The appeal is dismissed in terms of the signed  
order.

(R.K. DHAWAN)

(VEERA VERMA)

COURT MASTER

COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.695 OF 1998

State of U.P..... Appellant.

Versus

Madan Lal & Anr..... Respondent.

O R D E R

The appeal is preferred by the State of U.P. against the acquittal of the accused by the High Court. Originally four accused persons were tried for the offence of murder of one Onkar Singh and the Sessions Judge convicted them under Section 302/34 IPC and Section 201 IPC and sentenced them to life imprisonment and five years R.I. respectively. They preferred appeal before the High Court and during the pendency of the appeal before the High Court appellants Ramji and Jagdish passed away. The High Court was pleased to acquit Madan Lal and Raghubar Dayal. We are told that during the pendency of the appeal before this Court the fourth accused Raghubar Dayal also passed away and Madan Lal alone is the respondent before us.

According to prosecution on 20.10.97 at about 4.30 p.m. while Onkar Singh was returning on a cycle from the nearby market, the accused attacked him with gun, sword and other weapons and caused his death. PW-1 Bhanu Pratap Singh, PW-2 Ajay Pal Singh and PW-3 Magan Murti were the three eye witnesses. The High Court declined to place

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reliance on the Pws.1 and 2 as they were close relatives of deceased. The evidence of PW-3 was also not accepted on the ground that he was a chance witness. It is pertinent to note that PW-1 was one of the accused in a case where father of the respondent was murdered and the deceased Onkar Singh was "pairokar" for him during the trial of that sessions case. Counsel for the respondent submits that if PW-1 was present at the scene of occurrence the accused persons would have attacked him and that indicates that he was not present at the time of incident. The first information statement of murder was alleged to have been lodged at 9.15 p.m. on the same day. But in the first information statement PW-1 stated the entire facts relating to incident as if the incident had happened on the previous day. This was taken note of by the High Court and observed that the FIR must have ante dated.

We do not think that the High Court has taken wrong approach in acquitting the accused. We do not find any reason to interfere with the judgment of the High Court. The appeal is accordingly dismissed.

.....J  
(K.G. BALAKRISHNAN)

.....J  
(B.N. SRIKRISHNA)  
NEW DELHI;  
APRIL 29, 2004.