

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

Petition(s) for Special Leave to Appeal (Crl) No(s).6 3 4 3 / 2 0 0 8

(From the judgement and order dated 16 / 1 0 / 2 0 0 6 in CR LA No. 3 1 5 / 2 0 0 1 of The HIGH COUR T OF UTTA R A N C H A L AT NAIN I T A L)

S W A D E S H CHAN D R A @ GA P P U Petitioner(s)

VER SUS

STA T E OF UTTA R A N C H A L Respondent(s)

(With appln(s) for bail, exemption from filing c/c of the impugned Judgment, exemption from filing O.T. and office report)

Date: 28 / 1 1 / 2 0 0 8 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUS T I C E R.V. RA V E E N D R A N
HON'BLE MR. JUS T I C E D.K. JA I N

For Petitioner(s) Mr. Sanjeev Bhatn aga r, Adv.
Mr. Izhar Alam, Adv.
Ms. Kusu m Chaudha ry, Adv.

For Respondent(s)
Mr. J atinder Ku m a r Bhatia, Adv.

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

Leave granted. Heard learned counsel for the parties.

This appeal is allowed in terms of the signed order following the decision in Criminal Appeal No.8 5 5 / 2 0 0 7 and for the reasons stated therein. Consequently, the conviction of the appellant for offences punishable under Section 39 6 I PC is set aside and he is ordered to be acquitted. If the appellant is in jail, he shall be released forthwith if not required in any other case.

(Ravi P. Verm a) (Anand Singh)
Court Master Court Master

[Signed order is placed on the file]

IN TH E SUP R E M E COUR T OF INDI A

CRI M I N A L AP P E L L A T E JU R I S D I C T I O N

CRIM I N A L AP P E A L NO. 1 8 9 4 OF 2 0 0 8
[Arising out of SL P (Crl) 6 3 4 3 / 2 0 0 8]

S W A D E S H CHAN D R A @ GA P P UA P P E L L A N T
(S)

Versus

STA T E OF UTTA R A N C H A LR E S P O N D E N T
(S)

OR D E R

Leave granted. Heard learned counsel for the parties.

2. Six accused including appellant (Accused No.3) and Raj Kumar (Accused No.1) were tried for offences punishable under Sections 396, 412 and 120B IPC in regard to an incident which took place on 24.9.1982. The trial Court, by judgment dated 9.8.1985, convicted accused No.1 (Raj Kumar), accused No.2, accused No.3 (appellant) and accused No.4, under Section 396 IPC and sentenced them to rigorous imprisonment of 10 years and payment of fine of Rs. 2000 / -. On appeal by them, the High Court confirmed the conviction and sentence by judgment dated 16.10.2006. The said judgment of the High Court is challenged by the appellant (accused No.3).

3. Accused No.1 had filed a separate appeal by special leave challenging the very same judgment. The said appeal (C.A. No. 855 / 2007) was heard by this Court and by judgment dated 7.4.2008 the said appeal was allowed and the conviction of the accused No.1 for offence punishable under Section 396 IPC was set aside and he was ordered to be acquitted.

2.

- 2 -

4. We find that the appellant herein is similarly situated and the case against the appellant is the same as the appellant in Criminal Appeal No. 855 / 2007. Therefore, this appeal also deserves to be allowed.

5. This appeal is, accordingly, allowed following the decision in Criminal Appeal No.855 / 2007 and for the reasons stated therein. Consequently, the conviction of the appellant for offences punishable under Section 396 IPC is set aside and he is ordered to be acquitted. If the appellant is in jail, he shall be released forthwith if not required in any other case.

.....J.
(R.V. RAV E E N D R A N)

New Delhi;
November 28, 2 0 0 8 .

.....J.
(D.K. JA I N)