

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(s). 1457 OF 2007

DADUL DEKA @ KANAK DEKA

Appellant (s)

VERSUS

STATE OF ASSAM & ORS.

Respondent(s)

(With office report)
WITH APPEAL(CRL) NO. 1456 of 2007
(With office report)

Date: 30/08/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

Mr. Arvind Verma, Sr. Adv.(A.C)

For Appellant(s)

Mr. Balaji Srinivasan, Adv.(Not present)

For Respondent(s)

Ms. Vartika Sahay, Adv.
Mr. Avijit Roy, Adv.
Ms. Deepika, Adv.for
M/S Corporate Law Group

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

The Appeals are allowed in terms of the signed order.

(Parveen Kr. Chawla)
Court Master

(Indu Satija)
Court Master

[signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1457 OF 2007

Dadul Deka @ Kanak Deka

..Appellant

versus

State of Assam & Others

..Respondents

WITH
CRIMINAL APPEAL NO.1456 OF 2007

O R D E R

Criminal Appeal No.1457 of 2007

Heard learned counsel for the parties.

The appellant aggrieved by his conviction under Section 384/34 of the Indian Penal Code and sentence of rigorous imprisonment for three months has preferred the present appeal.

According to the prosecution, on 20.03.1990 at about 4 a.m. some un-identified persons visited the house of the informant Kiran Hazarika and forcibly took away her licenced gun. On the basis of the report given by the said Kiran Hazarika, a case under Section 384/34 of the Indian Penal Code was registered.

Police after investigation submitted charge-sheet against five persons for commission of the offence under Section 384/34 IPC read with Sections 3/4 of the Terrorists and Disruptive Activities (Prevention) Act, 1987.

The Designated Court had convicted the appellant solely relying on the evidence of the son of the informant PW2 and the recovery of 23 numbers of guns said to have been CRIMINAL APPEAL NO. 1457 OF 2007 etc.

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concealed in the compound of one accused Nirmal Phillip Dhan (since acquitted) by the appellant.

Mr. Verma, who has been appointed as amicus on behalf of the appellant by this Court on 20th July, 2011, submits that it shall be unsafe to convict the appellant relying on the evidence of the co-accused Pulin Das. He points out that the accused Pulin Das had disclosed that 23 numbers of guns were kept concealed in the compound of accused Nirmal Phillip Dhan by the appellant herein. Said recovery has not taken place at the instance of the appellant herein. Further, the informant has not been examined. In the state of evidence, it shall be unsafe to sustain the conviction of the appellant.

Accordingly, we give the appellant the benefit of doubt and acquit him of the charges leveled against him.

In the result, the appeal stands allowed and the judgment of the Designated Court convicting the appellant is hereby set aside. The appellant is on bail. His bail bonds shall stand discharged.

Registry is directed to pay Rupees Seven thousand five hundred only as fee to learned amicus.

Criminal Appeal No.1456 of 2007
Heard learned counsel for the parties.

The appellant aggrieved by his conviction under Section 384/34 of the Indian Penal Code and sentence of rigorous CRIMINAL APPEAL NO. 1457 OF 2007 etc.

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imprisonment for three months has preferred the present appeal.

According to the prosecution, on 20.03.1990 at about 4 a.m. some un-identified persons visited the house of the informant Dehiram Das and forcibly took away his licenced gun. On the basis of the report given by the said Dehiram Das, a case under Section 384/34 of the Indian Penal Code was registered.

Police after investigation submitted charge-sheet against five persons for commission of the offence under Section 384/34 IPC read with Sections 3/4 of the Terrorists and Disruptive Activities (Prevention) Act, 1987.

The Designated Court had convicted the appellant solely relying on recovery of 23 numbers of guns said to have been concealed in the compound of one accused Nirmal Phillip Dhan (since acquitted) by the appellant.

Mr. Verma, who has been appointed as amicus on behalf of the appellant by this Court on 20th July, 2011, submits that it shall be unsafe to convict the appellant relying on the evidence of the co-accused Pulin Das. He points out that the accused Pulin Das had disclosed that 23 numbers of guns were kept concealed in the compound of accused Nirmal

Phillip Dhan by the appellant herein. Said recovery has not
taken place at the instance of the appellant herein.
Further, the informant has not identified the appellant. In
the state of evidence, it shall be unsafe to sustain the

CRIMINAL APPEAL NO. 1457 OF 2007 etc.

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conviction of the appellant.

Accordingly, we give the appellant the benefit of doubt
and acquit him of the charges leveled against him.

In the result, the appeal stands allowed and the
judgment of the Designated Court convicting the appellant is
hereby set aside. The appellant is on bail. His bail bonds
shall stand discharged.

Registry is directed to pay Rupees Seven thousand five
hundred only as fee to learned amicus.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
AUGUST 30, 2011

.....J.
[CHANDRAMAULI KR. PRASAD]