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IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO. 261 OF 2009

Partap ... Appellant  
Versus  
State of Haryana ... Respondent

O R D E R

The present appellant faced trial for the offence punishable under Section 302 read with Section 34 IPC in Sessions Case No. 42 of 2003 along with Abhay Ram, his brother, on the allegations that the appellant had instigated Abhay Ram to fire a gun shot at the deceased, Karamveer. The learned Sessions Judge by the judgment dated 22.01.2005 convicted both the accused persons under Section 302/34 IPC and sentenced them to suffer life imprisonment. On appeal being preferred, the High Court concurred with the view expressed by the learned Sessions Judge and dismissed the appeal.

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We have heard Ms. Nupur Choudhary learned counsel for the appellant and Mr. Manjit Singh learned counsel appearing for the State.

It is submitted by Ms. Nupur Choudhary that the evidence against the appellant is extremely sketchy to prove that he had instigated his brother. It is also her submission that the witnesses who have deposed about "lalkara" have not been able to withstand the cross-examination and there is material contradiction. Mr. Manjit Singh appearing for State defended the judgment of conviction passed by the learned trial judge as well as that of the High Court and contended that they do not warrant any interference.

Having perused the judgment of the High Court and that of

the trial Judge and on a careful scrutiny of the evidence on record, we find that the evidence against the appellant that he had instigated his brother to fire a gun shot is actually not worthy of credence, for there is material contradiction in the evidence of PW-8 and PW-9 as regards the distance, the time as well as the manner in which the 'lalkara' was given. In our considered opinion

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it is a case where benefit of doubt should have been extended to the appellant, and accordingly, we set aside the judgment of the High Court and Trial Court.

Resultantly, the appeal is allowed. As the appellant is on bail, he be discharged of his bail bonds.

.....J.  
DIPAK MISRA ]

.....J.  
[ N. V. RAMANA ]

NEW DELHI,  
MAY 13, 2014.  
ITEM NO.109

COURT NO.5

SECTION IIB

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. 261 OF 2009

PARTAP Appellant (s)

VERSUS

SSTATE OF HARYANA Respondent(s)  
(With appln(s) for bail and office report)

Date: 13/05/2014 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MR. JUSTICE N.V. RAMANA

(VACATION BENCH)

For Appellant(s) Ms. Nupur Choudhary, Adv.  
Mr. Satyendra Kumar, Adv.

For Respondent(s) Mr. Manjit Singh, AAG

Mr.K.M. Gupta, Adv.  
Mr.Vikas Sharma, Adv.  
Ms. Naresh Bakshi,Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is allowed.

As the appellant is on bail, he be discharged  
of his bail bonds.

(Usha Bhardwaj)  
A.R.-cum-P.S.

[Sneh Lata Sharma]  
Court Master

Signed order is placed on the file.