

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).17/2006

STATE OF WEST BENGAL

Appellant(s)

VERSUS

ANIL MONDAL & ANR.

Respondent(s)

O R D E R

Ten persons were charged of an offence punishable under Section 302 read with Section 34 of the Indian Penal Code alleging that they had committed murder of one Krishna Pada Biswas. The learned Additional Sessions Judge after the trial of the case acquitted eight persons of the charges and convicted two persons who are respondents herein. These two persons were awarded death sentence for the said offence. Death Reference No. 3 of 2002 was made to the Calcutta High Court for the confirmation of the said sentence. Respondents herein also preferred an appeal against their conviction. The appeal as well as the Death Reference were heard together and the High Court has set aside the conviction which was recorded by the Trial Court whereby setting the respondents free.

It is not in dispute that it was a case of blind murder and only circumstantial evidence was led as there are no eye witnesses to the offence. The High Court, in order to appreciate the said circumstantial evidence, categorized the discussion in five phases which were put forward by the prosecution against the respondents herein. These are:

1. In the first phase, the prosecution had tried to establish

that A1 had come to the house of the deceased and took him away on the ground that A2 wanted to meet him. In support of this, the prosecution had produced three witnesses viz. PW1, PW5 and PW6.

2. Second phase of the prosecution case related to the agony of complainant's family (PW1) as his father (deceased) did not return back on the said night. For this, evidence of PW1(Son), PW4(Nephew), PW5(second Wife), PW6 (elder Son) and PW7 to PW10 (brothers of the deceased) were produced.

3. Third phase of the prosecution case pertained to the presence of the deceased in the company of the appellants i.e. last seen, which is supported by leading the evidence of PWs 4,7,8 and 9 in the Mahishbathan Market at about 7.30/08.00 p.m on 05.11.1995 and stating that the deceased was proceeding towards the fields in the company of the appellants as well as another accused Subhasish (acquitted by the Trial Court itself).

4. Fourth phase of the prosecution case related to the evidence of PW10, one of the brothers of the deceased, who had deposed that the night sky was moonlit when he saw all the ten accused persons coming out of a banana grove of Sankar Mondal (not examined).

5. Fifth phase of the prosecution case pertained to the deposition of PW1, who deposed that he went to enquire about the deceased as he had not returned on the previous night when he was told by the wife of the A1 that A1 had gone to the field; whereas his mother informed that he had gone to in-laws house. This evidence is shown to depict the conduct of the accused.

The judgment thereafter proceeds to discuss the charge of the aforesaid case and the testimony of witnesses in support of the particular case. On the analysis of the version of different witnesses in respect of each case, the High Court found glaring contradictions in the testimony of all witnesses which were discussed elaborately by the High Court.

We have gone through the said contradictions. Learned counsel for the appellants could not make any convincing arguments which could influence us to take a view different than what is taken by the High Court. In any case, it is a case of acquittal by the High Court that too after thorough analysis of the evidence on record and it is not for this Court to go through the said evidence again and proceed whether the findings recorded by the High Court are correct or not. More so, when it is a case of acquittal and we do not find any perversity in the aforesaid findings. This appeal is, accordingly, dismissed.

We place on record our appreciation for the services rendered by Mr. V.V. Giri, learned senior counsel, who appeared at our request as amicus curiae. We also place on record our appreciation of the assistance rendered by Ms Suadha Shankar, advocate who assisted Mr.V.V. Giri, learned senior counsel.

.....J.
[A.K. SIKRI]

.....J.
[PRAFULLA C. PANT]

NEW DELHI;
APRIL 21, 2016.

ITEM NO.105

COURT NO.10

SECTION IIB

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(s). 17/2006

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VERSUS

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(with office report)

Date : 21/04/2016 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE PRAFULLA C. PANTFor Appellant(s) Mr. Joydeep Mazumdar, Adv.
Mr. Parijat Sinha, Adv.
Ms. Reshmi Rea Sinha, Adv.
Mr. Debojyoti Bhattacharya, Adv.
Mr. Rohit Dutta, Adv.For Respondent(s) Mr. V. Gir, Sr. Adv.
Ms. Suadha Shankar, Adv.

Mr. Ambar Qamaruddin, Adv.
Mr. Syed Sarfaraz Kari, Adv.UPON hearing the counsel the Court made the following
O R D E R

The Civil Appeal is dismissed in terms of the signed order.

Interlocutory application(s) pending, if any, shall stand
disposed of accordingly.(Ashwani Thakur)
COURT MASTER(Tapan Kr. Chakraborty)
COURT MASTER

(Signed order is placed on the file)