

# SUPREME COURT OF INDIA

State of Uttar Pradesh

Vs.

Shivendra Singh

CrI.A.No.1206 of 1997

(Doraiswamy Raju and Arijit Pasayat JJ.)

04.02.2004

## JUDGMENT

### **Doraiswamy Raju, J.**

1. The above appeal has been filed by the State of Uttar Pradesh challenging the acquittal made of A-1, by name, Tajendra Singh and A-2 Shivendra Singh, sons of Iqbal Singh, A-3, who faced trial jointly along with another in Sessions Trial Nos.320, 321 of 1977 and ST No.59 of 1978 before the Additional District and Sessions Judge, Allahabad, in and by a judgment dated 25.02.1994 in Criminal Appeal No.1129 of 1979 on an appeal filed by the above two accused, who were indicted for the murder of one Ram Narain. Before the learned Trial Judge, there were four accused and the learned Trial Judge, while acquitting A-3 and A-4, convicted A-1 under Section 302 read with Section 34 IPC and A-2 under Section 302 IPC and sentenced them to undergo imprisonment for life. While the convicted accused approached the High Court by filing Criminal Appeal No.1129 of 1979, PW-1 filed Criminal Revision No.1097 of 1979 against the acquittal of A-3 and A-4 and also espousing his grievance against the punishment meted out to A-1 and A-2. A Division Bench of the High Court of Allahabad, by a common judgment dated 25.02.1994, while rejecting the revision of PW-1, allowed the appeal and acquitted A-1 and A-2 as well, resulting in the filing of the above appeal by the State.

2. Learned counsel for the appellant-State vehemently contended that the manner of re-appreciation undertaken by the High Court of the evidence and materials on record resulted in grave mis-carriage of justice and that the High Court was in serious error in acquitting A-1 and A-2 in respect of whom, at any rate, there was sufficient material to sustain their conviction made by the learned Trial Judge. Per contra, Mr. Jaspal Singh, learned senior counsel appearing for the respondents tried to justify the judgment of the High Court by adopting the reasoning of the Division Bench in contenting that the conclusions arrived at by the High Court cannot be said to be so arbitrary or unreasonable to warrant an interference with the verdict of acquittal returned on a fair and proper appreciation of the materials on record.

3. Learned counsel appearing on either side invited our attention to the relevant portions of the judgments of the courts below, in addition to drawing our attention to the evidence on record.

4. We have carefully considered the respective submissions of learned counsel appearing on either side in the light of the materials on record. We are of the view that there is no concrete material to condemn even A-1 and A-2 for the alleged murder of Ram Narain. As rightly pointed out by the High Court, the evidence of PWs. 2 and 3 is not only doubtful but the evidence of PW-4, said to be an independent eye-witness, does not, with any precision or cogency indicate the guilt of the respondents for the alleged offence. The accused party as well as the complainant party appears to have been involved in several litigations, both on the civil and criminal side and keeping in view all these aspects, the High Court, in our view, has undertaken re-appreciation of the materials as they deserved and the conclusions consequently arrived at cannot be said to be either perverse or so absurd or unreasonable as to call for our interference with an order of acquittal. At any rate, the view taken by the High Court appears to be also another reasonably possible view on the evidence on record and, therefore cannot be said to be vitiated due to any serious infirmities as to call for our interference in this appeal under Article 136 of the Constitution of India. The appeal, therefore, fails and shall stand dismissed.