

State Vs. Niraj

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Court : Rajasthan Jodhpur

Decided On : Jul-30-2014

Appellant : State

Respondent : Niraj

Judgement :

D.B.Criminal Leave to Appeal No.20/2014 State of Rajasthan vs Niraj 1 1
D.B.Criminal Leave to Appeal No.20/2014 State of Rajasthan vs Niraj DATE OF

ORDER

: 30th June 2014 HONBLE Mr.JUSTICE DINESH MAHESHWARI HONBLE
Mr.JUSTICE BANWARI LAL SHARMA Mr.Rajesh Bhati, Public Prosecutor.

<><><> BY THE COURT: Heard the learned Public Prosecutor and perused the
material placed on record.

By way of this petition, the State seeks leave to appeal against the judgment and
order dated 30.10.2013 as passed by the learned Additional Sessions Judge No.2,
Udaipur in Sessions Case No.27/2013.

In the aforesaid sessions case, the respondent-accused was tried for the offences
under Sections 302, 201 IPC on the allegations and accusations, as spelt out by
the learned Trial Court on the point for determination, which reads as under:-
11.9.2010 , " \$ * , , \$, , 2 " 3 2 , , 2 < C 302, 201 ..

H < ?..

D.B.Criminal Leave to Appeal No.20/2014 State of Rajasthan vs Niraj 2 The prosecution case, based essentially on circumstantial evidence, has been disbelieved by the learned Sessions Judge after thorough consideration of the entire evidence available on record and after finding inherent lacuna and shortcomings therein.

The suggestion about incident having taken place at the 6th storey of a complex under construction has been found unacceptable by the learned Trial Court, inter alia, with the following observations:- , .

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3 \$, N C < N 2 " < " C C < , O C . 5 O " 2 , , , Q2 <.....

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The alleged last seen evidence of PW-5 Dinesh has also been disbelieved by the learned Trial Court, inter alia, with the observations that there were fundamental inconsistencies in his statement as to when did he last see the accused and deceased together i.e., on the day of Ganesh Chaturdushi or Anant Chaturdushi, which stand ten days apart.

The learned Sessions Judge further found the parents and brothers of the deceased making rather improvements in their statements before the Court, over those made during the couRs.of investigation.

The learned Sessions Judge also found that the prosecution failed to establish any motive in the matter and in an over all analysis, has found the prosecution case not established with the following findings:- D.B.Criminal Leave to Appeal No.20/2014 State of Rajasthan vs Niraj 3 Q\$ CC 3 T 2 < 2 U T C2 < 2 H , 3 Q \$.

1 " C C2 ...

23.09.2010 < , 16.09.2010 (sic 26.09.2010) \$. 13 .

\$ < T U C Q \$ C T - , 2 < " C , H U " 2 < C2 2 3 T , , O C 2 2 < " In an overall comprehension of the matter, we are satisfied that the view as taken by the learned Trial Court remains a possible view of the matter and cannot be said to be suffering from any such fundamental error or infirmity wherefor the findings of acquittal be reversed.

In the result, the petition fails and is, therefore, rejected.

(BANWARI LAL SHARMA),J.

(DINESH MAHESHWARI),J.

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