

Anokh Singh vs State Of Punjab on 29 November, 1991

Equivalent citations: AIR1992SC598, 1992CRILJ525, 1991(3)CRIMES826(SC), JT1991(5)SC298, 1991(2)SCALE1197, 1992SUPP(1)SCC426, AIR 1992 SUPREME COURT 598, 1992 AIR SCW 235, (1991) 5 JT 298 (SC), 1992 (1) SCC(SUPP) 426, 1991 CRILR(SC MAH GUJ) 903, 1991 (5) JT 298, 1992 APLJ(CRI) 199, 1992 SCC(CRI) 294, 1992 CRIAPPR(SC) 66, 1992 SCC (SUPP) 1 426, (1992) 1 CURCRIR 308, (1992) 1 APLJ 56, (1992) EASTCRIC 128, (1992) 1 ALLCRILR 51, (1991) 3 CRIMES 826

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Bench: Kuldeep Singh, R.M. Sahai

ORDER

R.M. Sahai, J.

1. The only question in this appeal is whether the High Court was justified in reversing the order of acquittal and sentencing the appellant under Section 302 of Indian Penal Code.
2. The Trial Judge disbelieved the prosecution story as the shot by which the deceased died having admittedly been fired from 50 feet, there could not have any blackish margins of the injuries. It was held that the incident having taken place sometime in the early morning the lodging of FIR at 1.00 p.m. when the distance of police station was only 100 feet, created an impression that it was a manufactured document. Presence of Sulakhan Singh and Arjan Singh, the two eye witnesses was also ruled out as the wad was recovered from a distance of 46 feet whereas the shot must have been fired from 6 feet. The High Court on the other hand relying on text book held that blackish margin of the injuries could be either due to grease of the bullet or from traces of gun powder.
3. We have heard the counsel for parties at length. We have been taken through the judgment of both the courts and evidence. We do not propose to decide if the High Court was justified in setting aside the finding of the trial judge on variance between medical evidence and eye witnesses account. But the High Court did not examine the finding of the trial judge on improbability of prosecution story, doubtful presence of eye witnesses, delay in lodging of FIR, and unnatural conduct of complainant party. In an appeal against acquittal the High Court should have attached greater weight to appreciation of evidence by the trial judge who had the occasion to watch their demeanour. Being satisfied on facts that the order of reversal passed by the High Court is not well

founded we set aside the same without deciding the question of law.

4. In the result the appeal succeeds and is allowed. The order passed by the High Court is set aside. The bail bond of the accused is discharged.