

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR

**ORDER**

Amar Singh Vs. State of Rajasthan & Ors.  
**S.B. CR. REVISION PETITION NO.383/2005**

Against judgment and order dated 14.02.2005 passed by Addl. Chief Judicial Magistrate, Nohar in Criminal Case No. 210/2003 - State Vs. Kalu Ram Sunar & Anr.

DATE OF ORDER :: 30<sup>th</sup> November, 2006.

**PRESENT**

**HON'BLE MR.JUSTICE SATYA PRAKASH PATHAK**

Mr. K. S. Gill for petitioner.

**BY THE COURT:**

By this petition, challenge has been made to order dated 14.02.2005 passed by Addl. Chief Judicial Magistrate, Nohar in Criminal Case No. 210/2003 - State Vs. Kalu Ram Sunar & Anr. whereby the accused respondents have been acquitted of the offence under Sec.457/34 of the Indian Penal Code giving benefit of doubt .

The contention of the learned counsel is that in view of statement of PW3 Smt. Sumitra, specifically stating that the accused were seen in the moonlight, the trial Court has committed error in acquitting the accused respondents. The learned counsel has invited my attention towards the statements recorded in the Court.

I have considered the submissions made before me.

It appears that on the basis of the written report submitted in the Police Station, Nohar on 16.06.2003 by petitioner Amar Singh, the police registered FIR No.192/2003 and after investigation submitted chargesheet against the accused respondents. Charges were framed under Sec.457 of the IPC against accused respondents, to which they denied. In all, 4 witnesses were examined and documents were tendered in evidence. The learned trial Court after hearing both sides,

acquitted the accused, hence this petition has been filed against the order of acquittal dated 14.02.2005.

It appears that the learned trial Court while considering the evidence came to the conclusion that the distance from which the accused were seen create a doubt and there is only the evidence of Smt. Sumitra who has stated about the accused petitioners but after considering the entire evidence and material, the Court was of the opinion that the evidence was not sufficient to draw a conclusion that it were the accused respondents who committed the crime, therefore, giving benefit of doubt to them accused respondents have been acquitted. The position of law is also settled on the point that this Court should be slow in interfering in the orders of acquittal unless it is found that the trial Court committed severe illegality or the evidence in the case has been misread completely and till then the findings of the trial Court should not be disturbed. The law is also settled on the

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point that even if two views are possible on the material available on record then also the view which favours the accused is required to be considered. In the instant case, there is only one statement of PW3 Sumitra identifying the accused respondents and regarding that statement the trial Court while discussing the matter has assigned reasons for coming to its conclusion. Therefore, I do not feel inclined to interfere in the findings recorded by the trial Court whereby the accused respondents have been acquitted.

In view of above discussions, I do not find any merit in this revision petition, the same requires to be dismissed summarily and is hereby dismissed accordingly.

**(SATYA PRAKASH PATHAK)J.**

/jpa