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LALLU RAM AND ORS.

v.

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STATE OF U.P. AND ANR.

September 27, 1984

[Y. V. CHANDRACHUD, C. J., E. S. VENKATARAMIAH AND

A. VARADARAJAN, JJ.]

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Administration of Justice—When a life convict appeals that he was convicted for a murder that never was, the Supreme Court can reconsider the question seriously and call for further reports for doing fuller justice—Acquittals—Attempts to secure false acquittals by forging a fictitious documents deprecated—Constitution of India, 1950 Article 136.

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The appellants were convicted and sentenced to suffer imprisonment for life for the murder of a person by the name of Kunwar Bahadur in the village of Bamori Kalan, District Jalaun on July 18, 1971. Based on a news item carried by a Hindi daily called 'Nav Bharat' on June 3, 1983, that the dead body of one Kunwar Bahadur Singh was found in Vidisha in suspicious circumstances and that a letter purported to have been written by one Kunwar Bahadur Singh was recovered from the person of the deceased, the appellants filed a petition before the High Court of Madhya Pradesh, praying for their acquittals contending that Kunwar Bahadur Singh for whose murder they were convicted in 1971 was alive for twelve years thereafter and, therefore, their conviction was illegal. The High Court dismissed the petition. Hence the appeal by Special Leave of the Court.

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Dismissing the appeal, the Court,

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HELD : 1 : 1. When a person convicted of murder raised the question that he has material to show that he was convicted for a murder that had never taken place, as, for example, by showing that the person who was alleged to have been murdered is in fact alive the Supreme Court has the jurisdiction, in appropriate cases, to call for further data from the concerned authorities in order to examine the contention of the convict. This jurisdiction on which the Supreme Court can exercise, though with circumspection, is in order to do complete justice in any matter which is pending before it or which has been disposed of by it. [863G-H, 864A]

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1 : 2. The instant case, however, is an example of what an incredible amount of ingenuity is exercised by the people to secure false acquittals. The two reports called for from the District Magistrate, Vidisha, and the two photographs of

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the two dead bodies found in 1971 and 1983, respectively make it clear that (1) Kunwar Bahadur Singh for whose murder the appellants were convicted thirteen years ago is not the same person whose dead body was found on June 2, 1983 in Vidisha and (2) The letter which was found on the person of the dead body on June 2, 1983 is a forged and fictitious document manufactured for the purpose of obtaining false acquittals. [863D, 864E, 865E-F]

B CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 476 of 1984.

Appeal by Special leave from the Judgment and Order dated the 6th December, 1983 of the Allahabad High Court in Appeal No. 611 of 1976.

C *Dr. N. M. Ghatate and C.K. Ratnaparkhi* for the Appellants.

Manoj Swarup Dalveer Bhandari and A.K. Sanghi for the Respondents.

The Judgment of the Court was delivered by

D CHANDRACHUD, C.J. It is necessary to record this short order so that it may be known as to what an incredible amount of ingenuity is exercised by the people to secure false acquittals.

E A person by the name of Kunwar Bahadur was murdered in the village of Bamori Kalan, District Jalaun, on July 18, 1971. The appellants were convicted for that murder and were sentenced to suffer imprisonment for life.

F On June 2, 1983, dead body was found in Vidisha, Madhya Pradesh. A letter purported to have been written by one Kunwar Bahadur was recovered from the person of the deceased. On the next day, June 3, 1983, a Hindi daily called 'Nav Bharat' carried a news item to the effect that the dead body of one Kunwar Bahadur Singh was found in Vidisha in suspicious circumstances and that the letter which was recovered from the person of the deceased showed that he was repentant. This news item is alleged to have come to the notice of the relatives of the appellants, who contacted the Vidisha police. The contention of the appellants is that Kanwar Bahadur, for whose murder they were convicted in 1971 was alive for 12 years thereafter and that his dead body was found on June 2, 1983. By this appeal, they pray for an order of acquittal, or rather, for an order setting aside their 12 year old conviction on the ground that they were convicted for a murder that never was.

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A Since this appeal raised a question of serious concern to the administration of justice, an order was passed by this Court on April 11, 1984 directing the District Magistrate, Vidisha, to hold an inquiry into the allegation as to whether the person called Kunwar Bahadur, who was alleged to have been murdered in 1971, was found alive after the alleged murder and was thereafter murdered in some other incident which took place in 1983. The District Magistrate, Vidisha, Shri O.P. Dube, has submitted a report which deserves high praise. He has recorded statements of 18 persons and has examined documents leading to the conclusion that the person whose body was found on June 2, 1983 is not the person who was murdered in 1971 and for whose murder the appellants were sentenced to life imprisonment.

D It is clear from the report of the District Magistrate that the letter which was found on the person of the dead body on June 2 1983 is a forged and fictitious document manufactured for the purpose of getting over the order whereby the appellants were convicted for the murder of Kunwar Bahadur in 1971. The age of Kunwar Bahadur who was murdered in 1971 does not tally with the age of the person alleged to be Kunwar Bahadur whose dead body was found on June 2, 1983. The close relatives of the real Kunwar Bahadur who was murdered in 1971, have stated before the District Magistrate that the handwriting of the letter found on the person of the dead body which was discovered on June 2, 1983 is not that of Kunwar Bahadur who was murdered in 1971.

F After the receipt of the District Magistrate's Report, this appeal came up for hearing on August 13, 1984 when Dr. N.M. Ghatate, appearing for the appellants, asked that the District Magistrate should be directed further to show the photograph of the dead body which was discovered on June 2, 1983, to the close relatives of Kunwar Bahadur in order to remove any doubt on the question whether the person whose dead body was found in 1983 is the very Kunwar Bahadur for whose murder the appellants were convicted. Seeing the plausibility of this submission, a direction was given by this Court to the District Magistrate to do the needful and submit a further report to this Court.

H In accordance with the aforesaid direction, the District Magistrate showed the photograph of the dead body which was

found on June 2, 1983 to Kaushilya Rani, Jamana Das Lodhi and Sughar Singh who are respectively the widow, brother and son of Kunwar Bahadur who was murdered in 1971. The brother and son of Kunwar Bahadur stated that the photograph of the dead body which was discovered on June 2, 1983 is not that of Kunwar Bahadur. Kaushilya Rani stated before the District Magistrate that her husband was tall and slim, that he was not fat and that his complexion was fair. However she was unable to say whether the photograph shown to her was that of her husband, since the impression in the photograph was not clear.

On the basis of these statements, the District Magistrate has submitted a Supplementary Report to this Court stating that the photograph of the dead body is not that of Kunwar Bahadur. We had directed the District Magistrate to forward to us, along with his report, the photograph of Kunwar Bahadur who was murdered in 1971 and the photograph of the dead body which was found in 1983.⁶ Having compared these two photographs, which are annexures and 10 to the report of the District Magistrate, we are of the opinion that the conclusion to which the District Magistrate has come is correct. There is no resemblance between the two photographs.

The District Magistrate has stated that the officers of the Vidisha Police Station are guilty of a serious lapse in not registering the crime of murder when a dead body was found in their jurisdiction on June 2, 1983. As observed by him in this report which is drawn with commendable care, the entire case is shrouded in suspicion and deserves to be inquired into by the higher Police authorities.

In the result, we are of the opinion that Kunwar Bahadur for whose murder the appellants were convicted 13 years ago, is not the same person whose dead body was found on June 2, 1983 in Vidisha. The appeal is accordingly dismissed.

S.R.

Appeal dismissed.