

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1046 OF 2017

STATE OF RAJASTHAN

APPELLANT(S)

VERSUS

CHANDER MOHAN MAHIYA

RESPONDENT(S)

O R D E R

Heard the learned counsel appearing for the appellant. The trial court convicted the respondent for the offences punishable under Sections 302, 364 and 201 of the Indian Penal Code, 1860 (for short, "the IPC"). The High Court, by the impugned judgment, acquitted the respondent.

The case of the prosecution in brief is that on 14.09.2005, PW-4-Darshan Singh lodged a missing complaint stating that the deceased Suraj after left his house at about 05:00-06:00 p.m. on 11.09.2005, no one has heard anything about him. On 16.09.2005, a highly decomposed body was recovered from a flowing canal which was identified as the body of the deceased by PW-4 and other family members.

The case is based on circumstantial evidence of last seen together, recovery of weapon and other circumstances. The High Court has overturned the order of conviction by holding that the prosecution could not establish that the death was homicidal.

The body was decomposed and the post-mortem report recorded that there were no signs of external injury. A tentative opinion was recorded that the head injury could have been caused due to flow in canal. Ultimately, no final opinion could be given about the cause of death. Therefore, the prosecution could not establish that the death was homicidal. Homicidal death was required to be proved by the prosecution as a necessary ingredient of the offence. The finding of the High Court that the homicidal death was proved is a possible finding recorded by the High Court. Apart from that, the recovered stick which was alleged to be a weapon of offence did not have blood stains.

As the homicidal death could not be proved by the prosecution, the High Court has rightly come to the conclusion that the guilt of the respondent was not proved. The finding recorded by the High Court is certainly a possible finding which could have been recorded on the basis of evidence on record.

The appeal is, accordingly, dismissed.

Pending application(s), if any, shall also stand disposed of.

..... J.
[ABHAY S. OKA]

..... J.
[UJJAL BHUYAN]

ITEM NO.107

COURT NO.4

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s).1046/2017

STATE OF RAJASTHAN

Appellant(s)

VERSUS

CHANDER MOHAN MAHIYA

Respondent(s)

(Original record received)

Date : 06-02-2025 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Appellant(s) Ms. Nidhi Jaswal, Adv.
 Ms. Shalini Singh, Adv.
 Mr. Shiv Mangal Sharma, A.A.G.
 Mr. Milind Kumar, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Heard the learned counsel appearing for the appellant.

The appeal is dismissed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(SAPNA BISHT)

COURT MASTER (SH)

(Signed order is placed on the file)

(AVGV RAMU)

COURT MASTER (NSH)