

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.889 OF 2017
(Arising out of S.L.P.(Crl.) No.10416 of 2015)

SANTOSH KUMAR SINGH

APPELLANT (S)

VERSUS

STATE OF BIHAR

RESPONDENT (S)

O R D E R

1. Leave granted.
2. This appeal by special leave is directed against the order, dated 06.08.2012, passed by the High Court of Judicature, at Patna, in Criminal Appeal (DB) No. 476 of 1990, wherein the High Court, *vide* impugned judgment, has acquitted all the other accused persons; namely A-2 to A-5 except A-1 (appellant herein).
3. Earlier the trial court had convicted all the five accused under Section 302 read with Section 34 and Section 201 of the Indian Penal Code, 1860 [*hereinafter* 'IPC' *for brevity*] and sentenced each of the accused persons to undergo rigorous imprisonment for life under Section 302 of IPC and further sentenced to undergo

rigorous imprisonment for three years each under Section 201 of IPC.

4. Before us, appellant has challenged the order of conviction passed by the High Court.

5. It is to be noted that the prosecution case is based on the circumstantial evidence. Having heard the learned counsel for the parties, we find that the prosecution has failed to establish the complete chain of events, to establish the guilt against the appellant (Accused No. 1). Further the High Court has disbelieved the motive of the crime, which pertains only to Accused No. 5. Moreover since the High Court has acquitted all the other accused, this aspect has attained finality because no appeal is filed, against the acquittal, by the State.

6. Learned counsel for the respondent - State has mainly relied upon the '*last scene theory*' to establish the guilt of the accused. In view of the time gap and circumstances in which the body was recovered, the possibility of others intervening cannot be ruled out. In absence of credible evidence, it would be improper to come to the conclusion that the appellant was responsible and is guilty of committing murder of deceased. As it is a case purely based on circumstantial evidence, '*last seen theory*' alone

cannot be a basis for conviction.

7. Once the High Court has disbelieved and acquitted the other four accused, the Accused No.1 - appellant before us is also entitled to be given benefit of doubt.

8. Accordingly, the appellant is acquitted of the charges leveled against him and is directed to be released forthwith.

9. The appeal is, accordingly, allowed.

.....J.
(N.V. RAMANA)

.....J.
(PRAFULLA C. PANT)

**NEW DELHI,
MAY 02, 2017**

ITEM NO.7

COURT NO.11

SECTION IIA

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

Petition(s) for Special Leave to Appeal (Crl.) No(s). 10416/2015

(Arising out of impugned final judgment and order dated
06/08/2012 in CRLA No. 476/1990 passed by the High Court Of Patna)

SANTOSH KUMAR SINGH

Petitioner(s)

VERSUS

THE STATE OF BIHAR

Respondent(s)

(with appln. (s) for exemption from filing O.T. and interim relief
and office report)

Date : 02/05/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s)

Mr. R.K. Raizada, Sr.Adv.

Mr. Surjeet Singh, Adv.

Ms. Divya Roy, Adv.

For Respondent(s)

Mr. Shivam Singh, Adv.

For Mr. E. C. Vidya Sagar, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appellant is acquitted of the charges leveled
against him and is directed to be released forthwith.

The appeal is allowed in terms of the signed order.

[SUKHBIR PAUL KAUR]

A.R.-CUM-P.S.

[S.S.R.KRISHNA]

ASSISTANT REGISTRAR

(Signed order is placed on the file)