

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.799 OF 2007

Nur Islam Khan

...Appellant(s)

Versus

State of West Bengal

...Respondent(s)

O R D E R

Heard learned counsel for the parties.

The sole appellant was convicted by the Trial Court under Section 302 of the Indian Penal Code, 1860 [hereinafter referred to as “I.P.C.”] and sentenced to undergo imprisonment for life. On appeal being preferred, the High Court confirmed the conviction. Hence, this appeal by special leave.

Undisputedly, in the present case, there was no eye-witness to the alleged occurrence but the same is based upon circumstantial evidence. The only circumstance on the basis of which the conviction is based is that the deceased was last seen with the appellant which, in our view, alone could not have been a ground to convict the accused on the basis of circumstantial evidence. It is well-settled that, in a case of circumstantial evidence, conviction can be based only if there is complete chain of circumstances. In the present case, there is a solitary circumstance much less chain of

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circumstance which could not form the basis of conviction. This being the position, we are of the view that the High Court was not justified in upholding the conviction of the appellant.

Accordingly, the appeal is allowed, conviction and sentence of the appellant are set aside and he is acquitted of the charge.

The appellant, who is in custody, is directed to be released forthwith, if not required in connection with any other case.

[B.N. AGRAWAL]J.

[HARJIT SINGH BEDI]J.

New Delhi,
September 09, 2008.