

25.07. 2022
item No.20
n.b.
ct. no. 34

CRR 3952 of 2009

**Yad Ali Sk. @ Yad Ali
Vs.
The State of West Bengal & Ors.**

Mr. Arijit Ganguly
Ms. Sujata Das

.....For the State

The present revisional application was preferred challenging the judgment and order dated 27.07.2009 passed by the Learned Additional Sessions Judge, 1st Fast Track Court, Lalbagh, Murshidabad in Sessions Serial No.37 of 2005 (Sessions Trial No.1 of September, 2008).

The contention of the case relates to Ranitala Police Station Case No.36 of 2005 dated 30.04.2004 of the Indian Penal Code.

The learned Trial Court while delivering its judgment categorically observed that during the trial of the case the enclosed report was marked as Exhibit – VI which was preliminary enquiry conducted by the police authorities on 29.04.2004 at about 8/9 a.m.

According to the Trial Court no sufficient evidence appeared as to the place where the dead body of the victim namely, Abdus Sattar was found and the injuries referred to or complained is not available in the enquiry report or evidence placed before the Trial Court. Additionally, the Learned Trial

Court was pleased to observe that there was a suspicion on the basis of which the accused persons have been implicated in the present case and there are no cogent materials available in evidence which would bring the case within the ambit of proof beyond reasonable doubt.

An accused is presumed to be innocent and acquittal by a Trial Court fortifies such fact, as such, when the issue of acquittal is subject matter of challenge, the higher court has to be much more cautious regarding the issue of interference with an order of acquittal. It is also settled proposition of law that if two views are possible; one in favour of the accused and the other against the accused, in that case until and unless there is manifest error pointed out from the records of the case higher Court is precluded from interfering with the order of acquittal. That being the scenario and total period of 18 years having passed since the date of the incident, I am of the opinion that no interference is called for in respect of order of acquittal passed by the Learned Trial Court.

Accordingly, CRR 3952 of 2009 is dismissed.

Connected applications, if any, are consequently disposed of.

Interim order, if any, is hereby vacated.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)