

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1290 OF 2007

LALKU MIAN AND ORS

APPELLANTS

VERSUS

**CHIEF SECRETARY, M.H.A., GOVT.OF
WEST BENGAL**

RESPONDENT

O R D E R

1. Being aggrieved by the judgment and order passed by the High Court of Calcutta in Criminal Appeal No.229 of 2002 dated 24.01.2006, the appellant, who are four in number, are before us in this appeal. By the impugned judgment and order, the High Court has confirmed the judgment and order passed by the learned Additional Sessions Judge, 2nd Court, Birbhum, West Bengal in Sessions Case No.47 of 1999, dated 11.06.2002.

2. This is a case of the circumstantial evidence being taken note of by the Trial Court as well as the High Court for convicting the appellants herein for

offences under Section 302 read with Section 34 of the Indian Penal Code, 1860 ("IPC" for short). The High Court, in its well considered order, has noted the following aspects to bring home the point that the prosecution has proved beyond all reasonable doubt that the appellants are guilty of the offences alleged against them. The High Court has noted (a) that the appellants were last seen in the company of the deceased; (b) that the father of the deceased, namely, P.W.1 and other witnesses, namely P.W.s 2, 4, 5 and 6 had heard the cries of the deceased and endeavored to search for him; (c) that immediately after the commission of offence the appellants went missing and could not be traced; and (d) the factum of recovery of the weapon that was used for committing the offence.

3. After considering the aforesaid aspects of the matter, the High Court has come to the conclusion that the chain of circumstances is complete and, therefore, the Trial Court was justified in convicting and sentencing the accused persons for the offences under Section 302 read with Section 34 of

the IPC.

4. Smt.Vibha Datta Makhija, learned counsel appearing as *amicus* for appellant no.1 and Shri Pranesh, learned counsel for appellant nos. 2 to 4 have addressed their arguments in detail. They have also taken us through the entire evidence on record and the judgments of both the Courts. Shri Anip Sachthey, learned counsel for the State, in our opinion, ably justifies the impugned judgment and order.

5. Having carefully perused the judgments and order passed by the Trial Court as well as by the High Court, we are of the considered opinion that both the Courts have not committed any error either on facts or on the questions of law. Therefore, no interference with the said judgment and order is called for. Accordingly, while confirming the orders passed by the Courts below, we dismiss the appeal.

6. We place on record our deep appreciation in the able assistance rendered by Ms.Vibha Datta

Makhija, learned counsel, who was requested by us to assist us as *amicus* for appellant no.1. She is entitled for the professional fee in a sum of Rs.7,000/-.

.....J.
(H.L. DATTU)

.....J.
(CHANDRAMAULI KR. PRASAD)

NEW DELHI;
SEPTEMBER 25, 2012



JUDGMENT