

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1197 OF 2002

S.K. MANIRUDDIN

... APPELLANT(S)

:VERSUS:

STATE OF WEST BENGAL AND ANR.

... RESPONDENT(S)

O R D E R

This appeal, by special leave, is directed against the judgment and order dated 1.2.2002 passed by the High Court of Calcutta in C.R.R. No.1945/2000.

This is essentially a dispute between the husband and wife who are the appellant and respondent No.2 herein. The appellant was originally charged under Sections 498A, 307 & 420 of the Indian Penal Code. The Trial Court convicted the appellant and sentenced him to undergo rigorous imprisonment for a period of one year and a fine of Rs.1000/- for commission of offence under Section 323 of the Indian Penal Code.

On an appeal filed by the appellant, the Additional District Judge, 13th Court, South 24-Parganas, Alipore, by his order dated 18.12.1999 set aside the order of conviction and remanded the matter to the Trial Court for retrial after adducing fresh evidence as regards the place and date of occurrence only.

The matter again came up before the Trial Court and the Trial Court by its order dated 15.7.2000 passed in S.T. Case No.3(4)/97, acquitted the appellant for want of evidence.

Against the said order of acquittal dated 15.7.2000 passed by the Trial Court, the complainant - respondent No.2 herein filed a criminal revision before the High Court. The learned Single Judge of the High Court vide its order dated 1.2.2002 passed in C.R.R. No. 1945/2000, has set aside the order of acquittal passed by the Trial Court and remanded the matter to the Trial Court for decision afresh on a very limited aspect. The order passed by the learned Single Judge of

the High Court is under challenge in this appeal.

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The High Court has observed as under:

"In view of the order of learned Appellate Court, the learned Trial Court should have elicited further inclination of the prosecution to adduce any evidence and by simply in a mechanical fashion dubbing 'the prosecution does not intend to adduce any other evidence' shutting the door on the face of the prosecution, was not at all very happy scene. The learned Trial Court, with due respect, I venture to say took a very passive approach and did not involve itself actively in the remand process to elicit the actual crux of the matter. Accordingly, I am of the view, that the matter should be sent on remand for fresh decision as it is at the stage of fresh remand as passed by the learned Trial Court."

The High Court has noted down the statement of the learned counsel appearing for the prosecution that the prosecution does not intend to adduce any other evidence. Perhaps because the basic dispute is between the husband and the wife. We find no infirmity in the stand taken by the prosecution.

In this view of the matter, we are of the opinion that no useful purpose would be served in remitting the matter for reconsideration, particularly when the prosecution is not prepared to adduce any other evidence in this matter. In this view of the matter, the impugned judgment of the High Court cannot be sustained.

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On consideration of the totality of the facts and circumstances of this case, we deem it appropriate to set aside the impugned judgment and allow this appeal. The appeal is accordingly disposed of.

.....J
(DALVEER BHANDARI)

.....J
(Dr. B.S. CHAUHAN)

NEW DELHI,
SEPTEMBER 9, 2009.