

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1145 OF 2003

SUKHDEO JHA

Appellant (s)

VERSUS

STATE OF BIHAR & ORS.

Respondent(s)

ORDER

Respondents 2 to 8 were tried for offences punishable under Sections 147, 148, 323, 324, 448, 379 and 302 IPC. The trial Court, by its judgment dated 1/5/2000, acquitted them.

2. The appellant, who is the informant, filed Criminal Revision No.599/2000 before the High Court. According to him, adequate steps were not taken by the trial Court to secure the attendance of the prosecution witnesses and that had led to a wrong acquittal. The High Court, by order dated 4/10/2002, rejected the revision petition as it found that the trial Court had taken all reasonable steps for securing the attendance of the witnesses. The said order is under challenge in this appeal by special leave.

3. We find that two witnesses who were examined turned

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hostile. In spite of summons issued to other witnesses, none appeared. By a detailed order dated 19/4/2000, the trial Court, after noticing the facts and non-appearance of witnesses, closed the prosecution evidence. Thereafter the statement of the accused was recorded and the trial Court proceeded to judgment. The grievance of the appellant that he was not notified of the position of the case and that he was not summoned has no basis. In fact at the relevant point of time appellant himself was a declared absconder in some other criminal case and surfaced only long after the judgment of the trial Court in this matter. As the two witnesses who were examined had turned hostile and no other witnesses were forthcoming in spite of issue of summons and non-bailable warrants, the trial Court had no option but to proceed on the basis of the evidence on record and acquit the respondents. The order dated 19/4/2000 of the trial Court shows that adequate steps were taken to secure the presence of the witnesses and the High Court has also examined the entire matter and found no ground to interfere.

4. In view of the above, the appeal is dismissed.

.....J.
(R.V. RAVEENDRAN)

.....J.
(Dr. MUKUNDAKAM SHARMA)

NEW DELHI;
JUNE 25, 2008.