

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 988 OF 2004

BOBBY MATHEW

.....

APPELLANT

VERSUS

STATE OF KARNATAKA

.....

RESPONDENT

O R D E R

We have heard the learned counsel for the parties.

Several reasons have been advanced by the High Court to indicate that the chain of circumstances against the appellant were complete. These circumstances are:

(I) close acquaintance of deceased and the accused including visiting each others houses due to common bondage of hobby in photograph;

(ii) On 19th accused had called the deceased to come to his house on the next date;

(iii) The deceased leaving his house in the morning of 20th informing P.W. 7 his wife and P.W. 8 a close acquaintance that he is going to the house of the accused;

(iv) The dead body of Dr. Ravish being discovered in the room of first floor of the house bearing No. 278, Sadanandnagar, NGEF Layout of which P.W. 5 is admittedly the owner and that room being in exclusive possession and occupation of the accused where the dead body was found;

(v) On 20th and admittedly even from 15th to 21st, it was only the accused and P.W. 4 who were in the house, as P.W. 5 and his wife had left the house to go to Kerala;

(vi) The dead body of Dr. Ravish was found tied to a cot inside the room and body bearing as many as 31 injuries all over, out of which the injuries in the head region being ante mortem and fatal in nature.

We have heard the learned counsel on each of these circumstances and find that the judgment of the trial court as well as the High Court have considered all aspects and arrived at a correct conclusion. Learned counsel for the appellant, however, pointed out that in view of the circumstances it appears that the appellant was not mentally sound; as for the order made by this Court from time to time some extenuation, therefore, was to be given to the appellant. We find, however, that question of any insanity does not arise as this was never pleaded on behalf of the accused-appellant at any stage. Under Section 84 of the Indian Penal Code, 1860, in order to get the benefit of

insanity or unsoundness of mind the accused is liable to show that on the day of the incident the accused was not in sound condition.

The appeal is, therefore, dismissed. The appellant is stated to be on bail. It is directed that he be taken on custody forthwith to undergo the remaining part of the sentence.

NEW DELHI
AUGUST 27, 2009.

