

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 409 OF 2005

STATE OF U.P.

.. APPELLANT(S)

VS.

SUMAN

... RESPONDENT(S)

O R D E R

1. This is an appeal against acquittal.
2. The Sessions Judge had convicted the respondent herein, the wife of the deceased, Manni, for an offence punishable under Section 302 of the Indian Penal Code and had awarded a sentence of life imprisonment. This judgment has been reversed by the High Court. While doing so, the High Court has given several findings which to our mind call for no interference. The prosecution story is that (P.W. 1) Chunna and Smt. Kallo (P.W. 2), the parents of the deceased, had not seen the accused firing the shots

but on hearing the sound of firing they along with Rameshwar, brother of PW 2, had entered the room belonging to the accused and the deceased and had found the injured lying there and on enquiry he had told Rameshwar that the accused had fired the shots injuring him. We find it improbable, and it is so found by the High Court, that the respondent, a young woman, had, at that stage, run away along with three young children despite the presence of two men in the room and after bolting the door from the outside. The improbability of the story has been further highlighted by the High Court by observing that as per the prosecution, the injury had been caused to the deceased from a short distance i.e. the firing was within the room but there were no signs of blackening, tattooing or charring around the wounds and as a shot gun had been used allegedly from a distance of 8 to 10 feet the dimension of injury no. 1 which was 1.00cm X 1.00cm which could not have been possible as there would be substantial dispersal of the pellets. The High Court has also found that one metal bullet had been recovered from the dead body which could not be a pellet from a shot gun cartridge. The High Court has also observed that the recovery of a gun from one Kamlesh about one month after the incident (which was the licensed weapon of the deceased) could not be connected with murder as the two

empty cartridges recovered from the murder site, did not match the murder weapon, more particularly, as the initial prosecution story was that the shot gun had been left behind in the room by the accused when she had run away.

3. No interference is thus called for.

4. The appeal is, accordingly, dismissed.

.....J.
(HARJIT SINGH BEDI)

.....J.
(R.M. LODHA)

New Delhi,
October 07, 2010.

JUDGMENT