



**IN THE SUPREME COURT OF INDIA**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO(S). 692 OF 2014**

**VINDHYACHAL & ANR.**

**APPELLANT(S)**

**VERSUS**

**THE STATE OF UTTAR PRADESH & ORS. RESPONDENT(S)**

**O R D E R**

1. The appellants have been convicted by the High Court for the offences punishable under Sections 302/34, 307/34 and 148 of the Indian Penal Code, 1860 (for short the 'IPC').
2. The Trial Court on appreciation of the evidence placed before it, was

pleased to extend the benefit of doubt to the appellants which has been reversed by the High Court vide the impugned judgment.

3. The case of the prosecution in a nutshell is that in the year 1977, the accused No.1 and other accused were witnessing a dance which was bordering on obscenity and was objected to by the prosecution witnesses' side. It resulted in a fight between the two groups. Thereafter, due to the previous enmity, the accused persons came to the field of the complainant and starting attacking him and others. The instant FIR in July, 1978 was preceded by an earlier occurrence which also resulted in an FIR filed against the accused persons in the month of March, 1978.
4. In the case at hand, the statement of PW-4 was recorded as a dying declaration who, thereafter, survived. Thus, the said statement does not have the evidentiary

value of a dying declaration.

5. The Trial Court upon appreciation of the evidence on record disbelieved the evidence of the prosecution and rendered an order of acquittal. Insofar as the evidence of PW-4 is concerned, the Trial Court was pleased to hold that the earlier statement made by PW-4 an alleged injured eye witness is in contradiction to the statement of PW-3 that resulted in the First Information Report. Material discrepancies between the oral evidence adduced by the eye-witnesses and that of the medical evidence was taken note of by the Trial Court. Even the statement given by the complainant as PW-3, at the time of registration of the First Information Report and thereafter his statement before the Trial Court being contradictory in nature was also taken note of.
6. Incidentally, it was also found by the Trial Court that though the First

Information Report is alleged to have been recorded on 03.07.1978, the officer concerned has signed it on the next day, giving credence to a strong suspicion that it must have been ante-dated.

7. The evidence of PW-4 to 6 was eschewed by the Trial Court apart from the fact that they were interested witnesses, as there were material contradictions between their prior statements and the subsequent statements made by them before the Trial Court.
8. Thus, by taking note of the aforesaid facts, the Trial Court was pleased to extend the benefit of doubt to the accused persons by holding that the prosecution has not proved the charges levelled against them beyond reasonable doubt and acquitted them.
9. The High Court, vide the impugned judgment, was pleased to reverse the judgment of the Trial Court by holding that the discrepancies, though in

existence, were minor in nature and would not vitiate the case of the prosecution.

10. We find considerable force in the submissions made by the learned counsel appearing for the appellants that when the Trial Court which had the benefit of seeing the witnesses produced before it was pleased to render an order of acquittal, then the Appellate Court while exercising its power under Section 378 of the Code of Criminal Procedure, 1973 as it then was, should be slow in reversing the order of acquittal. In other words, a Court of Appeal shall not substitute the view of the Trial Court, especially when the views expressed by the Trial Court is a plausible one. It is a case of double presumption of innocence that would enure to the benefit of an acquitted person.

11. After going through the judgment of the Trial Court, we certainly find that it is a plausible view that has been expressed by it. The High Court has replaced that

view with its own reasoning, which is not permissible in the eye of law.

12. We also take note of the fact that it is a case involving Section 34 and 148 of the IPC and, therefore, there is always a possibility of the Prosecution adding more accused.

13. Thus, considering the aforesaid discussion, we set aside the impugned judgment, by restoring the judgment of acquittal rendered by the Trial Court.

14. The appellants shall be released forthwith, unless required in any other case.

15. Accordingly, the appeal stands allowed.

16. Pending application(s), if any, shall stand disposed of.

.....J.  
[M.M. SUNDRESH]

.....J.  
[K.V. VISWANATHAN]

NEW DELHI;  
6<sup>th</sup> MARCH, 2025

ITEM NO.102

COURT NO.8

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 692/2014

VINDHYACHAL & ANR.

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS. Respondent(s)

Date : 06-03-2025 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH  
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Appellant(s) Mr. M.K. Tiwari, Adv.  
Mr. Chiranjeev Johri, Adv.  
Mr. Pradeep Kumar Mathur, AOR

For Respondent(s) Mr. Bhakti Vardhan Singh, AOR  
Mr. Vivek Singh, AOR

UPON hearing the counsel the Court made  
the following  
O R D E R

The appeal is allowed in terms of the  
signed order.

The relevant portion of the order reads  
as under:-

'The appellants shall be  
released forthwith, unless  
required in any other case.'

Pending application(s), if any, shall

stand disposed of.

(SWETA BALODI) (POONAM VAID)  
ASTT. REGISTRAR-cum-PS ASSISTANT REGISTRAR  
(Signed order is placed on the file)