

A

MUBARIK KHAN

v.

NABABKHA @ NAWAB AND ORS.

(Criminal Appeal No. 612 of 2002)

B

OCTOBER 1, 2008

**[DR. ARIJIT PASAYAT AND DR. MUKUNDAKAM
SHARMA, JJ.]**

C

Constitution of India, 1950 – Art.136 – Appeal against acquittal by High Court – Scope of interference – High Court acquitted the accused on grounds that the evidence of sole eyewitness was unreliable and there was considerable delay in dispatch of FIR to Magistrate – Held: View taken by High Court was a possible view – Hence, interference not called for.

D

The High Court directed acquittal of the accused on grounds that the evidence of the sole eyewitness was unreliable and there was considerable delay in dispatch of FIR to the Magistrate. Hence the instant appeals.

E

Dismissing the appeals, the Court

HELD: The view taken by the High Court is a possible view and therefore considering the parametres relating to cases where judgment of acquittal is assailed, it is not a fit case for interference by this Court. [Para 1] [125-C,D]

F

CRIMINALAPPELLATE JURISDICTION : Criminal Appeal No. 612 of 2002

G

From the final Judgment and Order dated 18.1.2002 of the High Court of Madhya Pradesh Bench at Indore in Criminal Appeal No. 495 of 1996

WITH

CrI. No. 1105 of 2002

Shanshindra Tripathi, Sharad Tripathi, M.P. Shorawala,

H

Vibha Datta Makhija, Siddhartha Dave and Niraj Sharma for A
the Appearing Parties.

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. Having heard learned counsel B
for the appellant at length we are not satisfied that this is a
case where any interference is called for. The High Court has
found that the evidence of PW5, who was stated to be the sole
eye-witness, unreliable. Apart from that there is considerable
delay in dispatch of the first information report to the court.
Though in all cases that may not be the determinative factor, but C
when considered with other aspects that assumes importance.
The High Court has dealt with this aspect in detail. The view
taken by the High Court is a possible view and therefore con-
sidering the parametres relating to cases where judgment of
acquittal is assailed, we do not consider this to be fit case for D
interference.

2. The appeal is dismissed.

Criminal Appeal No. 1105/2002:

3. In view of the dismissal of Criminal Appeal No. 612/ E
2002, this appeal is also dismissed.

B.B.B.

Appeals dismissed.