

A STATE OF HIMACHAL PRADESH  
v.  
NARESH KUMAR @ KAKA & ORS.  
(Criminal Appeal No.1202 of 2003)

B APRIL 22, 2009  
[DR. ARIJIT PASAYAT AND ASOK KUMAR  
GANGULY, JJ.]

C *Penal Code, 1860 : s.302 read with s.34, s.323 read with s.34 – Conviction under, by Trial Court – High Court ordered acquittal – On appeal, held : High Court did not analyse evidence in detail and came to abrupt conclusion about prosecution version being not credible – Matter remitted to High Court.*

D **Trial Court convicted the respondents-accused persons under Section 302 read with Section 34 and 323 read with Section 34 IPC. High Court acquitted the respondents. State filed present appeal.**

E **Allowing the appeal and remitting the matter to High Court, the Court**

F **HELD: The High Court did not analyse the evidence in detail. It came to certain abrupt conclusions about the prosecution version being not credible. Since High Court was upsetting a judgment of the trial court which was rendered after analysing the evidence, the causal manner in which the appeal was disposed of, allowing the appeal filed by the respondent-accused persons was certainly not the proper course to be adopted. [Para 3] [871-E-G]**

G **CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No.1202 of 2003.**

STATE OF HIMACHAL PRADESH v. NARESH 871  
KUMAR @ KAKA & ORS.

From the Judgment & Order dated 27.6.2002 of the High Court of Himachal Pradesh at Shimla in Criminal Appeal No. 563 of 2000. A

Naresh K. Sharma for the Appellant.

Sidhartha Luthara, Bina Madhavan, Mohamad Feroz, Tarun Satija (for M/s. Lawyer's Knit & Co.) for the Respondent. B

The Judgment of the Court was delivered by

**DR. ARIJIT PASAYAT, J.** 1. Challenge in this appeal is to the judgment of a Division Bench of the Himachal Pradesh High Court directing acquittal of the respondents who faced trial of alleged commission of offences punishable under Section 302 read with Section 34 and 323 read with 34 of the Indian Penal Code, 1860 (in short, 'the IPC'). C

2. Learned Sessions Judge, Hamirpur had found the present respondent-accused persons guilty and had convicted each one of them and sentenced to imprisonment for life and to pay fine of Rs.2000/- with default stipulation. Learned Sessions Judge, however, acquitted the co-accused Sunil Kumar. D E

3. We need not deal with the factual aspects in detail because we find that the High Court has not analysed the evidence in detail. It has come to certain abrupt conclusions about the prosecution version being not credible. Since the High Court was upsetting a judgment of the Trial Court which has been rendered after analysing the evidence, the casual manner in which the appeal was disposed of allowing the appeal filed by the present respondent-accused persons was certainly not the proper course to be adopted. F G

4. Therefore, without expressing any opinion on merit, we set aside the impugned judgment and remit the matter to the High Court for fresh consideration. H

A 5. Since the matter is pending since long, we request the High Court to explore the possibility of disposing of the appeal as early as practicable and preferably by the end of September 2009.

B 6. After the acquittal when this Court granted leave, the respondents were not in custody and bailable warrants were issued. They will continue to be so till the disposal of the matter afresh by the High Court.

7. The appeal is allowed accordingly.

C

D.G.

Appeal allowed.