



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 1520 OF 2024
(@ SPECIAL LEAVE PETITION(CRL.) NO(S). 733 OF 2024)

CHETRAM & ANR.APPELLANT(S)

VERSUS

RANJEET & ORS.RESPONDENT(S)

O R D E R

1. Leave granted.

2. This appeal arises out of the judgment and order of the High Court¹ allowing the criminal appeal filed by the respondents/accused herein, against the judgment and order of conviction by the Trial Court².

3. In view of our decision to set-aside the judgment of the High Court and remand the matter for reconsidering the criminal appeal, it is not necessary to note detailed facts leading to the filing of this appeal. Suffice to say that pursuant to an FIR dated 20.01.2002, the respondents were tried for offences under Section 307 read with Section 34 of the Indian Penal Code, 1860³. After trial, the Court of Additional Sessions Judge, Karera, District Shivpuri, Madhya Pradesh by its judgment dated 15.02.2005, convicted the accused under Section 307 read with Section 34 of the IPC and sentenced them to undergo rigorous imprisonment for a

¹ Judgment and order of the High court of Madhya Pradesh (Gwalior Bench) in Criminal Appeal No. 191 of 2005 dated 24.04.2023.

² Judgment and order of the Court of Additional Sessions Judge, Karera, District Shivpuri, Madhya Pradesh in S.T. No. 112 of 2005 dated 15.02.2005.

³ Hereinafter, referred to as the "IPC".

period of seven years and to pay a fine of Rs. 500/-, or undergo simple imprisonment of six months in case of non-payment of fine.

4. Aggrieved by the conviction and sentence imposed by the Trial Court, the respondents filed a criminal appeal before the High Court. The High Court, by the order impugned herein, disposed of the criminal appeal by reducing the sentence from rigorous imprisonment of seven years to the period already undergone, which is three months and seventeen days. The following is virtually the entirety of the judgment of the High Court, impugned herein:

"This criminal appeal has been filed by the appellants against the judgment dated 15.02.2005 passed by the Additional Sessions Judge Karera District Shivpuri in S.T. No. 112/2002 of IPC (on two counts) and sentenced him to undergo seven years R.I. with fine of Rs. 500/- each with default stipulation.

Learned counsel for the appellants submits that he does not want to challenge the conviction of the appellants for the aforesaid offence. As regards sentence, it is submitted by learned counsel for the appellants that incident took place on 20.01.2002 and appellants have been facing agony of trial for more than 21 years. Appellants have already suffered incarceration of three months and seventeen days. Amount of fine has been deposited by them. Therefore, while enhancing the fine amount suitably, sentence of the appellants by reduced to the period already undergone by them.

Learned counsel for the State objected the prayer made by learned counsel for the respondent.

Heard learned counsel for the parties and perused the impugned judgment.

Looking to the facts and circumstances of the case, ends of justice would meet if while reducing the jail sentence of the appellants to the period already undergone by them, the fine is enhanced to Rs. 15,000/- under Section 307/34 of IPC in regard to each of the complainants. accordingly, while affirming the conviction of the appellants under Section 307/34 of IPC, jail sentence of the appellants is reduced to the period already undergone by them and fine amount is enhanced to Rs. 15,000/- under Section 307/34 of IPC in regard to each of the complainants which shall be

deposited by them within a period of two months from today, failing which the appellants will have to suffer the sentence as awarded by the Court below. The amount of fine so deposited by the appellants be given to each of the complainants under Section 357 of Cr.P.C as compensation. With the aforesaid, the criminal appeal stands disposed of."

5. The High Court was exercising jurisdiction under Section 374 of the Code of Criminal Procedure, 1973⁴. While adjudicating an appeal against conviction and sentence, the appellate court is required to consider all the points dealt with by the trial court by independently applying its mind and re-appreciating the evidence.

6. This Court has time and again reiterated the importance of a criminal appeal in a number of decisions⁵. Further, this Court in *State of Rajasthan v. Dhool Singh*⁶, (2004) 12 SCC 546 observed the trend of High Courts routinely reducing sentences to periods of incarceration already undergone and observed:

"18. Before concluding, we must refer to a disturbing tendency noticed by us very often in some of the judgments impugned before this Court. As in this case in some appeals, we find the appellate or revisional courts reduce the sentence while maintaining the conviction to sentence already undergone without even noticing what is the period already undergone. The courts should bear in mind that there is a requirement in law that every conviction should be followed by an appropriate sentence within the period stipulated in law. Discretion in this regard is not absolute or whimsical. It is controlled by law and to some extent by judicial discretion, applicable to the facts of the case. Therefore, there is a need for the courts to apply its mind while imposing sentence. In the instant case, the

⁴ Hereinafter, referred to as the "CrPC".

⁵ *Badan Singh v. State of Madhya Pradesh*, (2003) 12 SCC 792 and *State of Karnataka v. Papanaika*. (2004) 13 SCC 180.

⁶ (2004) 12 SCC 546.

High Court while convicting the respondent for an offence punishable under Section 304 Part II IPC which has maximum sentence up to ten years thought it fit to impose the sentence already undergone without even applying its mind as to why it should be less than ten years or for that matter, what is the sentence already undergone. We seriously deprecate such misplaced generosity on the part of the courts while imposing sentence."

7. Reiterating the importance of the jurisdiction that the High Court is to exercise under section 374 of the CrPC and having noted that the High Court failed to exercise such a jurisdiction, we are compelled to set aside the judgment and order impugned herein and remand the matter back to the High Court for reconsideration. The High Court shall re-hear the appeal after giving an opportunity to the parties and dispose of the criminal appeal. In view of the fact that the appeal is of the year 2005, we request the High Court to dispose of the appeal as expeditiously as possible.

8. Pending disposal of the criminal appeal by the High Court, the judgment of the Trial Court dated 15.02.2005 stands suspended and the appellants shall be entitled to bail, subject to such conditions as imposed by the Trial Court.

9. In terms of the above directions, the Criminal Appeal No. 1520 of 2024 is allowed.

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

.....J
[PAMIDIGHANTAM SRI NARASIMHA]

.....J
[ARAVIND KUMAR]

NEW DELHI;
MARCH 12, 2024.

ITEM NO.51

COURT NO.16

SECTION II-A

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

PETITION FOR SPECIAL LEAVE TO APPEAL (CRIMINAL) NO(S). 733/2024
(Arising out of impugned final judgment and order dated 24-04-2023
in CRLA No. 191/2005 passed by the High Court of M.P. at Gwalior)

CHETRAM & ANR.

Appellant(s)

VERSUS

RANJEET & ORS.

Respondent(s)

(TO BE TAKEN UP AT 2.00 P.M.

IA No. 170099/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 170098/2023 - EXEMPTION FROM FILING O.T.)

Date : 12-03-2024 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s) Mr. Sudhanshu Kaushesh, Adv.
Mr. Pulkrit Agarwal, AOR

For Respondent(s) Mr. Ashok Anand, AOR
Mr. Bipin Bihari Singh, Adv.
Mr. Samarjeet Deo, Adv.
Mr. Rajesh Kumar, Adv.

Ms. Anuradha Mishra, D.A.G.
Mr. Yashraj Singh Bundela, AOR
Mr. Surjeet Singh, Adv.
Mr. Pawan, Adv.
Mr. Chanakya Baruah, Adv.

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

Leave granted.

The Criminal Appeal is allowed in terms of the signed order.

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

(POOJA SHARMA)
COURT MASTER (SH)

(NIDHI WASON)
COURT MASTER (NSH)

(Signed order is placed on the file)