

(2022) 09 GUJ CK 0175

In the Gujarat High Court

Case No : R/Criminal Appeal No. 1291, 1332 Of 2009

Anjuben Hasmukhdan Gadhvi & 1 Other(S)

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 28-09-2022

Acts Referred:

Indian Penal Code, 1860 — Section 114, 323, 504
Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(11)

Citation : (2022) 09 GUJ CK 0175

Hon'ble Judges : Samir J. Dave, J

Bench : Single Bench

Advocate : P P Majmudar, SP Majmudar, RC Kodekar

Final Decision : Disposed Of

Judgement

Samir J. Dave, J

1. Criminal Appeal No.1291 of 2009 : The appellants in this appeal are the original accused in Special Atrocity Case no.62 of 2008, who have been convicted for the offences u/s. 323 and 504 read with Section 114 of IPC and Section 3(1)(11) of the SC & ST (Prevention of Atrocities) Act, vide judgment and order dated 08.07.2009 passed by the learned Additional Sessions Judge, Fast Track Court, Palanpur.

For conviction u/s.323 read with Section 114 of IPC, both the appellants-original accused have been sentenced to undergo R.I. for six months and to pay fine of Rs.1000/- each and in default, imprisonment for a further period of one month; for conviction u/s.504 read with Section 114 of IPC, both the appellants-original accused have been sentenced to undergo R.I. for one year and to pay fine of Rs.1000/- each and in default, imprisonment for a further period of three months; and for conviction u/s. 3(1)(11) of the SCT & ST Act, both the appellants-original accused have been sentenced to undergo R.I. for one year and to pay fine of Rs.2000/- each and in default, imprisonment for a further

period of three months.

All the aforesaid sentences were ordered to run concurrently.

1.1 Criminal Appeal No.1332 of 2009 : The appellants in this appeal are the original accused in Special Atrocity Case no.113 of 2008, who have been convicted for the offences u/s. 323 and 504 read with Section 114 of IPC, vide judgment and order dated 08.07.2009 passed by the learned Additional Sessions Judge, Fast Track Court, Palanpur.

For conviction u/s.323 read with Section 114 of IPC, both the appellants-original accused have been sentenced to undergo R.I. for six months and to pay fine of Rs.1000/- each and in default, imprisonment for a further period of one month; and for conviction u/s.504 read with Section 114 of IPC, both the appellants-original accused have been sentenced to undergo R.I. for one year and to pay fine of Rs.1000/- each and in default, imprisonment for a further period of three months.

All the aforesaid sentences were ordered to run concurrently.

2. Both these appeals arise out of cross-complaints and today, when the matters were taken up for hearing, learned advocate Mr. P.P. Majmudar appearing for the appellants in Criminal Appeal No.1291 of 2009 and learned advocate Mr. Paresh Patel appearing for the appellants in Criminal Appeal No.1332 of 2009 stated that the parties have arrived at an out of settlement, in support whereof, they have produced Affidavits on behalf of the original complainants in both the appeals. The Affidavits filed in both the appeals are taken on record.

3. In the Affidavits filed by the original complainants in both these Criminal Appeals, it has been averred that cross-complaints were filed against each other and that as on today, no dispute is prevalent between them in connection with the complaints in both the matters. It is also averred in the Affidavits that they do not have any objection if the impugned judgment and orders of conviction and sentence, which are in challenge in both these appeals, are quashed and set aside and the accused therein are acquitted of all the charges.

4. Considering the facts and circumstances of the case as also the affidavits of settlement filed by the original complainants in both the matters and the sentences imposed upon the original accused in both the cases, in the interest of justice, this Court deems it appropriate to quash both the impugned judgment and orders.

6. In the result, both the appeals are allowed. The impugned judgment and order dated 08.07.2009 passed by the learned Additional Sessions Judge, Fast Track Court, Palanpur in Special Atrocity Case no.62 of 2008, which is subject matter of challenge in Criminal Appeal No.1291 of 2009 as also the impugned judgment and order dated 08.07.2009 passed by the learned Additional Sessions Judge, Fast Track Court, Palanpur in Special Atrocity Case no.113 of 2008, which is subject matter of challenge in Criminal Appeal No.1332 of 2009, are quashed

and set aside and the appellants, original accused in both the cases, are acquitted of all the charges levelled against them. Bail bonds, if any, stand cancelled and surety, if any, stands discharged. Both the appeals stand disposed of.