

(2019) 03 GUJ CK 0019
In the Gujarat High Court
Case No : R/Criminal Appeal No. 1254 Of 2012

Ashokji @ Buchiyo Meruji Thakor

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 05-03-2019

Acts Referred:

Code of Criminal Procedure, 1973 — Section 374
Indian Penal Code, 1860 — Section 304I, 304II, 323, 384, 511
Scheduled Castes And The Scheduled Tribes (Prevention Of Atrocities) Act, 1989
Sections 3(1)(10), 3(2)(5)

Citation : (2019) 03 GUJ CK 0019

Hon'ble Judges : A.G.Uraizee, J

Bench : Single Bench

Advocate : P P Majmudar, Lr Pujar

Final Decision : Disposed Off

Judgement

1. The appellant has assailed the judgment and order of conviction dated 7.07.2012 passed by the learned Additional Sessions and Special Judge, Deesa in Special Case No.4 of 2010 in this appeal under Section 374 of the Code of Criminal Procedure (for short "the Cr.P.C."). The learned Special Judge vide impugned judgment, while acquitting the appellant for the offence punishable under Sections 323, 384 and 511 of the Indian Penal Code (for short the "I.P. Code") and under Sections 3(1)(10) and 3(2)(5) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (Atrocity Act for short) convicted the appellant for the offence punishable under Section 304 Part-II of I.P. Code and directed him to suffer rigorous imprisonment for 10 years and to pay a fine of Rs.10,000/-(Ten Thousand Only), I.D. simple imprisonment for 60 days.

2. I have heard Mr. Mukund Kumar A. Thakkar, learned advocate for Mr. P.P. Majmudar, learned advocate for the appellant and Mr. L.R. Pujari, learned Additional Public Prosecutor for the respondent.

3. Mr. Pujari, learned Additional Public Prosecutor has produced the jail remarks

which are taken on record. It emerges from the jail remarks that in all the appellant is convicted under three different Sessions Cases, details whereof are as under:-

Sl. No

Court

Case No.

Date of punishment

Act

Punishment

Punishment and imprisonment (Y.M.D.)

Appeal and Outcome

Set of (Y.M.D.)

1

Additional Sessions Court, Deesa

04/01/10

07/07/12

IPC304, Part-I

10 Years

3,10,000 /- ID 00-02-00

1254/12 , Pending

02.0.21

2

Add. Chief Judicial Magistrate Court

Cri. Case No.1998 /12

10/10/13

66(1)B8 5(1)(3

3,100/- ID 00-00-10 Fine Paid

00-01-01

3

Add. Chief Judicial Magistrate Court

Cri. Case No.1580 /12

20/03/14

224

2-Years

3,500/- ID 00-01-00 FNP

00-01-01

Total Imprisonment

12- Years

3,10,600 /- ID 00-03-10 FNP

4. It is thus clear from the above jail remarks that the appellant who was directed to suffer 10 years of imprisonment for having committed an offence punishable under Section 304 Part-I has served out his sentence on 25.09.2018. The present appeal, therefore, has become academic and infructuous.

5. Mr. Thakkar, learned advocate for the appellant also could not controvert the facts that the appellant has served out the sentence which is the subject matter of challenge in this appeal.

6. In view of the above, the appeal stands disposed of as having become infructuous as the appellant has already served out the sentence.

7. Record and Proceedings, is ordered to be remitted to the trial Court forthwith.