
(1987) 09 SC CK 0002

In the Supreme Court Of India

Case No : Writ Petition (Criminal) No. 675 of 1986

Damji

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 24-09-1987

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 432(1), 433
Penal Code, 1860 (IPC) — Section 302

Citation : (1987) 4 JT 70 : (1990) SCC 143 Supp : (1990) 1 SCC 143 Supp

Hon'ble Judges : B. C. Ray, J;A. N. Sen, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

A.P. Sen, J.—By an order dated January 3, 1985, the State Government of Maharashtra, in exercise of the powers conferred by Sub-section(1) of Section 432 of the CrPC, 1973, purported to remit that portion of the sentence of imprisonment, which is in excess of 20 years of total imprisonment, including all remissions, in the case of the petitioner undergoing imprisonment for life on his conviction u/s 302 of the Indian Penal Code, 1860, subject to his good behaviour and conduct in prison. The impugned order declining to give to the petitioner the benefit of premature release does not disclose any reasons. Presumably, the Government was misled that the case of the petitioner is governed by Section 433-A of the Code. According to the decision of this Court in Maru Ram and Others Vs. Union of India (UOI) and Others, , the provision contained in Section 433-A of the Code is not applicable in those cases where the conviction was recorded prior to December 18, 1978 i.e. the date on which Section 433-A was introduced by the CrPC (Amendment) Act, 1978.

2. We must accordingly allow the petition, and issue a direction to the State Government to reconsider and dispose of the application made by the petitioner for premature release within a period of four weeks from today. It shall be open to the Government to come to its own decision as to whether the benefit of

premature release should be extended to the petitioner or not, having regard to all the attendant facts and circumstances of the case.