

(2013) 06 GUJ CK 0048

In the Gujarat High Court

Case No : Special Criminal Application No. 2122 of 2012

Paresh @ Abdulrazak Vedprakash

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 10-06-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 427(2)
Penal Code, 1860 (IPC) — Section 302, 379, 406, 419, 420

Citation : (2013) 06 GUJ CK 0048

Hon'ble Judges : S.G. Shah, J

Bench : Single Bench

Advocate : Ejaz M. Qureshi, s No. 1, for the Appellant; Moksha Thakkar, Assistant Public Prosecutor for the Respondent(s) No. 1, for the Respondent

Final Decision : Dismissed

Judgement

S.G. Shah, J.—Nobody is present for the petitioner even in the second call. Heard learned APP Ms. Moksha Thakkar and perused the record.

2. By his letter in the month of July, 2012 addressed to this Court, petitioner has requested to consider his case u/s 427(2) of the Code of Criminal Procedure, so as to consider different sentences for different offences to be running concurrently. As per his application he was sentenced for life imprisonment by judgment dated 23.05.2002 in Session Case No. 216 of 2001 for committing offence punishable u/s 302 etc the Indian Penal Code. In Criminal Case No. 278 of 2001, he was convicted for 6 years imprisonment for committing offence punishable under Sections 406, 419, 420 etc the Indian Penal Code. In Criminal Case No. 277 of 2001, he was convicted for 3 years imprisonment for committing offence punishable u/s 379 etc the Indian Penal Code. According to the petitioner, therefore he has been convicted for 29 years in all. It is confirmed from his petition itself that his appeals are dismissed by the competent Courts.

3. It seems that this Court by an order dated 06.09.2012 taken a view that matter is required to be taken up when appropriate assistance is also rendered to

the applicant as learned APP has shown as many as 7 judgments and authorities on this point militating against granting of this application.

4. The fact remains that statutory Criminal Appeals were dismissed by the concerned competent Courts and therefore, this Court does not require to exercise its discretionary jurisdiction.

5. It is settled law that awarding of sentence is squarely within the jurisdiction of the Court which has conducted the trial. Such sentence can be altered or modified in a statutory appeal by the convict. It is also certain that quantum of sentence is also purely within the jurisdiction and discretion of the Court, which is hearing the Criminal Case as well as Criminal Appeal. Thereby, quantum of sentence cannot be altered into or modified in present petition. Even in the same case it is the jurisdiction and discretion of the trial and appellate Court to award appropriate sentence with appropriate direction that whether different sentences for different offences shall run concurrently or separately. Therefore, such order of competent Court awarding sentence with a direction to run it separately cannot be interfered in a writ jurisdiction. Therefore, I do not inclined to interfere with orders of conviction passed by the trial Courts and confirmed by the different appellate Courts. Hence, petition is rejected. Rule is discharged.