

(2023) 02 MP CK 0086

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 181 Of 2014

Ramcharan And Anr

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 24-02-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 389(1)
Indian Penal Code, 1860 — Section 302, 392, 394

Citation : (2023) 02 MP CK 0086

Hon'ble Judges : Vivek Rusia, J;Anil Verma, J

Bench : Division Bench

Advocate : Amit Singh Sisodia

Final Decision : Allowed

Judgement

Heard on I.A. No.2432/2023 which is Sixth application under Section 389(1) of Code of Criminal Procedure, 1973 for suspension of remaining jail sentence and grant of bail filed on behalf of appellant No.2 – Jasrath.

The appellant No.2 has been convicted under Section 302 and 394 of IPC and sentenced to undergo Life Imprisonment with fine of Rs.1,000/-and ten years' R.I. with fine of Rs.1,000/- respectively with default stipulation.

Also heard on I.A. No.1625/2023, which is Fourth application under Section 389(1) of Code of Criminal Procedure, 1973 for suspension of remaining jail sentence and grant of bail filed on behalf of appellant No.1 – Ramcharan.

The appellant No.1 has been convicted under Section 392 and 302 of IPC and sentenced to undergo ten years R.I. with fine of Rs.1,000/- and Life Imprisonment with fine of Rs.1,000/- respectively with default stipulation.

As per prosecution story, 06.01.2012 an FIR was lodged by Gopal Bairagi that his mother Kamlabai went to the agriculture field and when she returned she was having an injury on her neck and according to her two unknown persons have

looted silver ornaments by causing injury on her neck. FIR was initially registered under Section 394 of IPC against the unknown person. She was referred to the hospital from where she was discharged but thereafter on 22.01.2012 she died and accordingly Section 302 of IPC has been added. Later on these two appellants were arrested and from their possession silver ornaments were recovered. They were tried under the aforesaid sections and convicted vide impugned judgment dated 26.12.2013.

Learned Govt. Advocate opposes the aforesaid prayer and prays for its rejection.

Heard.

The appellants have completed almost 10 years of jail sentence. They have prayed for suspension of sentence on the ground that the deceased died due to cardiac arrest and not because of the injury. Merely the looted articles were recovered, presumption has been drawn that these appellants have committed murder as held by the Apex Court in case of Raj Kumar alias Raju v/s State (NCT of Delhi) reported in (2017) 11 SCC 160 decided on 20.01.2017.

Considering the facts and circumstances of the case and looking to the period of custody and this appeal of 2014 and also that applicant has no other criminal record, I am of the considered opinion that the application for suspension of custodial sentence moved on behalf of the appellants deserves to be allowed.

Accordingly, I.A(s) No.2432/2023 and 1625/2023, are allowed and it is directed that subject to depositing fine amount and on furnishing personal bond by the appellant No.2 –Jasrath and appellant No.1 – Ramcharan in the sum of Rs.50,000/- (Rupees Fifty Thousands Only) each with one solvent surety each in the like amount to the satisfaction of the learned trial Court and on deposit of fine amount (if not already deposited), the execution of custodial part of the jail sentence shall remain suspended, till the final disposal of this appeal. The appellants after being enlarged on bail, shall mark their presence before the Registry of this Court on 12/09/2023 and on all such subsequent dates as may be fixed by the Registry of this Court in this regard.

List for final hearing in due course.

Certified copy, as per rules.