

(2015) 07 SC CK 0079

In the Supreme Court Of India

Case No : Criminal Appeal No. 931 of 2015 (Arising out of S.L.P. (Criminal) No. 1839 of 2012) and Criminal Appeal No. 932/2015 (Arising out of S.L.P. (Criminal) No. 7101/2012)

Ravinder Singh and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 15-07-2015

Acts Referred:

Constitution of India, 1950 — Article 136

Penal Code, 1860 (IPC) — Section 147, 148, 149, 302, 304

Citation : (2015) 3 ACR 3166 : (2015) 7 AD (SC) 685 : (2015) 4 AJR 48 : (2015) 90 ALLCC 972 : (2015) 3 ALT(Cri) 206 : (2015) 3 CCR 322 : (2015) CriLJ 3984 : (2015) 3 Crimes 65 : (2015) 3 RCR(Criminal) 698 : (2015) 8 SCALE 34 : (2015) 8 SCJ 35 : (2015) 2 UC 1343

Hon'ble Judges : T.S. Thakur, J;R. Banumathi, J

Bench : Division Bench

Advocate : Shiva Sharma, Daya Krishan Sharma and Varinder Kumar Sharma, for the Appellant; Alok Sangwan, AAG., Kamal Mohan Gupta and Varinder Kumar Sharma, Advs., Advocates for the Respondent

Final Decision : Allowed

Judgement

R. Banumathi, J—Delay condoned and leave granted in both the special leave petitions.

2. These appeals arise out of the impugned judgment dated 16.08.2010 passed by the High Court of Punjab and Haryana at Chandigarh in Criminal Appeal No. 514-SB/1998 whereby the High Court disposed of the appeal filed by the Respondents-accused directing the reduction of sentence of the accused persons Under Section 304 Part II Indian Penal Code read with Section 149 Indian Penal Code and Section 148 Indian Penal Code to the period already undergone and further directing the accused Pyare Lal @ Hitender Pradeep and Manphool to deposit Rs. 1,25,000/- each and directing other accused persons to deposit an amount of Rs. 25,000/- each with the trial court with default clause and directing

the trial court to disburse the said amount of compensation to the legal heirs of the deceased-Duli Chand.

3. Brief facts which led to the filing of these appeals are as under: On 04.08.1993 complainant-Sher Singh (PW6) along with his elder brother Duli Chand were returning from Bus adda of village Devsar towards their house. No Sooner they reached the tyre puncture shop owned by Rajpal, they saw these accused persons-Respondents, namely, Pyare Lal @ Hitender Pradeep (A-4) armed with lathi, Ramesh @ Ravinder Pardeep (A-1) armed with a jaily and Surender (A-2), Raj Kumar (A-3) and Manphool (A-5) also armed with lathi. Fourth accused-Pyare Lal whooped (lalkar) stating that "Duli Chand should be taught a lesson for making a complaint against them before the panchayat" and the accused persons assaulted Duli Chand. Accused-Pyare Lal @ Hitender Pradeep (A-4) gave lathi blow on the head of Duli Chand, Ramesh inflicted a jaily blow on the right arm of Duli Chand, Surender (A-2) hit Duli Chand with a lathi on the right hand. Accused Raj Kumar (A-3) gave a lathi blow on the hands of Duli Chand. Narender (A-6) gave a lathi blow on the right leg of Duli Chand while Manphool (A-5) gave a lathi blow on the head of Duli Chand. Due to the attack deceased sustained grievous injuries and fell down and all the accused persons dragged him inside the house of Bhundu. On hearing the screaming of the complainant-Sher Singh for help, Jai Singh and Roshan Lal came to the spot. Sher Singh (PW6) with the help of Jai Singh and Roshan Lal (PW7) had taken Duli Chand to General Hospital, Bhiwani. Duli Chand remained in coma and succumbed to injuries on 09.08.1993. On the basis of the complaint lodged by complainant-Sher Singh, FIR No. 277 was registered Under Sections 147, 148, 149, 323, 324 and 342 Indian Penal Code. On the death of Duli Chand, the FIR was altered to Section 304 Part II Indian Penal Code. On completion of investigation, chargesheet was filed against the accused persons.

4. The charges were framed against all the accused persons Under Sections 148 and 302/149 Indian Penal Code and all the accused pleaded not guilty. Upon consideration of the evidence adduced by the prosecution, the trial court vide judgment dated 11.06.1998 convicted all the six accused persons Under Section 304 Part II Indian Penal Code read with Section 149 Indian Penal Code and sentenced each of them to undergo rigorous imprisonment for a period of seven years. The accused were also convicted Under Section 148 Indian Penal Code and were sentenced to undergo rigorous imprisonment for two years. Being aggrieved by the judgment passed by the Sessions Court, accused persons filed Criminal Appeal No. 514-SB/1998 before the High Court of Punjab and Haryana at Chandigarh wherein vide impugned judgment dated 16.08.2010, High Court reduced the sentence of imprisonment imposed on all the six accused persons Under Section 304 Part II Indian Penal Code read with Section 149 Indian Penal Code and 148 Indian Penal Code to the period already undergone by each of them and also imposed fine as indicated in paragraph 2. Being aggrieved by the reduction of sentence, the Appellant Ravinder Singh son of the deceased-Duli Chand has preferred criminal appeal arising out of SLP (Crl.) No. 1839 of 2012

assailing the correctness of the impugned judgment.

5. Learned Counsel for the Appellant-Ravinder Singh contended that the injuries caused by the accused resulting in the death of Duli Chand have been well established by the prosecution and the penal liability cannot be substituted by payment of compensation. It was submitted that having regard to the manner of attack and the injuries, the Respondents-accused do not deserve any mercy and the High Court has erred in showing undue sympathy in reducing sentence to the period already undergone.

6. Learned Counsel for the Respondents-accused submitted that accused Narender (A-6), Raj Kumar (A-3) were the students and Pyare Lal (A-4) was a police personnel and Manphool (A-5-since dead) was aged about 72 years and having regard to the facts and circumstances of the case, High Court reduced the sentence to the period already undergone and it cannot be said to be an erroneous exercise of discretion warranting interference in exercising jurisdiction Under Article 136 of the Constitution of India.

7. We have heard the rival contentions advanced by the parties and gave our thoughtful consideration to the evidence and material on record.

8. The evidence adduced by the prosecution that the Respondents-accused inflicted injuries on the deceased-Duli Chand which caused his death and conviction of the Respondents-accused is unassailable. The only point to be considered is whether there was improper exercise of discretion by the High Court in reducing the substantive sentence to the period already undergone and directing the accused to pay the amount of compensation is correct.

9. Question of sentence is always a difficult task requiring balancing of various considerations. The question of awarding sentence is a matter of discretion to be exercised on consideration of circumstances aggravating and mitigating in the individual cases. Law courts have been consistent in the approach that a reasonable proportion has to be maintained between the seriousness of the crime and the punishment. While it is true that sentence disproportionately severe should not be passed that does not clothe the court with an option to award the sentence manifestly inadequate. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime. In *The State of Karnataka Vs. Krishnappa*, (2000) CriLJ 1793 : (2000) 3 JT 516 : (2000) 2 SCALE 610 : (2000) 4 SCC 75 : (2000) 2 SCR 761 : (2000) 2 UJ 919 : (2000) AIRSCW 1040 : (2000) 2 Supreme 611 , this Court held thus:

...The sentencing courts are expected to consider all relevant facts and circumstances bearing on the question of sentence and proceed to impose a sentence commensurate with the gravity of the offence. Courts must hear the loud cry for justice by the society in cases of the heinous crime of rape on innocent helpless girls of tender years, as in this case, and respond by imposition of proper sentence. Public abhorrence of the crime needs reflection through

imposition of appropriate sentence by the court. There are no extenuating or mitigating circumstances available on the record which may justify imposition of any sentence less than the prescribed minimum on the Respondent. To show mercy in the case of such a heinous crime would be a travesty of justice and the plea for leniency is wholly misplaced. The High Court, in the facts and circumstances of the case, was not justified in interfering with the discretion exercised by the trial court and our answer to the question posed in the earlier part of the judgment is an emphatic--No....

10. Considering the facts of the present case as submitted by the learned Counsel for the Respondents two accused namely Raj Kumar (A-3) and Narender (A-6) were the students at the time of the incident while Manphool (A-5) has crossed the age of 72 years. The occurrence was in the year 1993 and more than 22 years have elapsed from the date of the incident. For the conviction Under Section 304 Part II Indian Penal Code read with Section 149 Indian Penal Code reduction of sentence from seven years to the period already undergone, though, appears to be inadequate, at this distant point of time, we are not inclined to interfere with the exercise of discretion by the High Court in reducing the sentence of imprisonment from seven years to the period already undergone by each of the accused. As far as the award of compensation is concerned, particularly in the case of homicidal death, monetary benefits cannot be equated with the life of a person and the society's cry for justice. Object is just to mitigate hardship that is caused to the deceased.

11. In the facts and circumstances of the case considering the plight of deceased family, the fine amount of Rs. 25,000/- imposed on each of the accused Ramesh @ Ravinder Pardeep (A-1), Surender (A-2), Raj Kumar (A-3), Narender (A-6) is increased to Rs. 1,25,000/- each. Apart from the fine amount of Rs. 25,000/- said to have been deposited by each of the accused 1, 2, 3 and 6, they shall pay an additional fine of Rs. 1,00,000/- each within eight weeks. Accused No. 4- Pyare Lal @ Hitender Pradeep shall pay fine amount of Rs. 1,25,000/- if he has not so far deposited within eight weeks. In case, the fine amount/enhanced fine amount is not deposited by the Respondents-accused before the trial court within the time stipulated, then they shall undergo the substantive sentence of imprisonment as imposed by the trial court. Once the aforesaid amount is deposited by the Respondents accused, the trial court shall disburse the same to the legal representatives of Duli Chand. Accused Manphool (A-5) died during the proceedings. If he had already paid the fine amount, the same shall also be disbursed to the legal heirs of Duli Chand. Since this order is passed in the peculiar facts and circumstances of the case, this may not be treated as a precedent. The appeal is disposed of in the above terms. Criminal Appeal arising out of SLP (Crl.) No. 7101 of 2012 is disposed of in the same terms.