

**(2024) 05 MP CK 0160**

**In the Madhya Pradesh High Court**

**Case No : Criminal Appeal No. 10286 Of 2024**

Veer Singh Dangi And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

**Date of Decision : 24-05-2024**

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 301(2), 389(1)  
Indian Penal Code, 1860 — Section 148, 149, 302, 323

**Citation : (2024) 05 MP CK 0160**

**Hon'ble Judges : Vivek Rusia, J;Roopesh Chandra Varshney, J**

**Bench : Division Bench**

**Advocate : J.P.Kushwah, Gaurav Singh Chauhan, V.B.Singh, R.S.Kushwah, Kiran Kumar**

## Judgement

Heard on I.A.No.7419 of 2024, under Section 301(2) of Cr.P.C for assisting PP in the matter.

F o r the reasons mentioned therein, the application is allowed. Shri Virendra Pal and his associates are permitted to assist PP in the matter.

Also heard on IA No. 7715 of 2024, application under Section 389(1) Cr.P.C. moved on behalf of appellant No.2- Brandavan Dangi seeking suspension of sentence and grant of bail.

Appellant stood convicted under Sections 148, 302/149 and 323/149 of IPC and sentenced to undergo RI for six months with fine of Rs.500/-, life imprisonment with fine of Rs.10,000/- and RI for six months with fine of Rs.500/- respectively with default stipulation vide judgment of conviction and sentence dated 10.07.2023 passed by Ist ASJ to the Court of IInd ASJ, Datia in S.T.No.103 of 2018.

Learned Counsel for the appellants submits that as per the case of prosecution itself, complainant party was going to village Dongarpur. On way, they asked for Rs.20,000/- from Veer Singh. An altercation ensued between the parties

wherein, Raghuvir Singh sustained injuries and ultimately succumbed to it. Learned counsel referring to judgment dated 10.07.2023 passed in S.T.No.28 of 2007 contends that the complainant party had come to the residence of Raghuvir Singh for demanding outstanding amount of money. One of them, namely, Santosh was armed with a fire arm (Katta). Santosh was convicted for causing gunshot injury to Rambihari and Rajkumar was convicted for assaulting appellant Veer Singh with axe on his head. This goes to show that the complainant party was aggressor. Learned trial Court ignored this aspect of the matter and concluded that it was a case of free fight between the parties. Learned counsel referring to the statement of Ghanshu (PW7), Lallu Singh (PW8), Heeralal (PW9), Brijmohan Gupta (PW10), Vasudev Kamaria (PW13) and Bhagwat Singh (PW14) contends that these eye witnesses have not supported the prosecution rather, they have supported the defence story. Learned trial Court although mentioned statements of these witnesses in Para 27 to 31 of the judgment but gave no plausible reason to discard their testimony. Learned counsel contends that no premeditation or prior making of mind can be inferred from the evidence on record, rather, it is a case of self defence. Prosecution witnesses have corroborated the explanation extended by defence that Veer Singh had sustained injury due to dashing his head against the tractor trolley while running from the spot of incident. Learned trial Court did not consider the defence of accused in proper perspective.

Learned Counsel further submits that impugned judgment passed by learned Trial Court is based on assumption, conjectures and surmises. The learned Trial Court has committed an error in convicting and sentencing the present appellant without appreciating the prosecution evidence properly. There are material contradictions and omissions in the evidence of witnesses. The appellant Veer Singh has already undergo jail incarceration for about three years and Seventeen days. The appellant claims parity. He is in custody since the date of judgment i.e. 10.07.2023. The appeal is of the year 2023. There is no likelihood of early hearing of appeal in near future. Therefore, remaining jail sentence of appellant may be suspended and he may be enlarged on bail.

Per contra, learned Counsel for respondent State ably assisted by learned counsel for the complainant opposes the application and prays for its rejection on the gravity of alleged offence. Learned counsel submits that the trial Court has committed no error in convicting appellant for murder of Raghuvir Singh. Raghuvir Singh had sustained fracture of temporo-parietal bone on the skull which resulted in his death. The medical evidence duly corroborates oral evidence. Learned counsel further submits that appellant had threatened wife of Raghuvir Singh and caused her gunshot injury. Accordingly, FIR was registered at Crime No.145 of 2004 against appellant at PS Goraghat Distt. Datia. Therefore, appellant may not be extended benefit of suspension of sentence.

In reply, learned counsel for the appellant submits that after investigation into Crime No.145 of 2004 of PS Goraghat Distt. Datia, final report was submitted

exonerating appellant of the allegation as alleged against him.

Learned counsel for the State fairly states that final report (Khatma) has been proposed in Crime No.145 of 2004 of PS Goraghat Distt. Datia.

After hearing learned Counsel for the parties, but without commenting upon rival contentions touching merits of the case, this Court is of the view that application deserves to be allowed. It is, accordingly directed that execution of remaining jail sentence of appellant No.2 Brandavan Dangi only shall remain suspended during pendency of this appeal and he shall be enlarged on bail subject to furnishing personal bond in the sum of Rs.2,00,000/- (Rupees Two lac Only) with one solvent surety in the like amount to the satisfaction of Trial Court for compliance with following conditions:-

- (1). The appellant shall deposit the amount of fine (if not deposited) forthwith;
- (2). The appellant shall appear before the Trial Court on 18th July, 2024 and on such further dates as may be directed by the Trial Court;
- (3) . The appellant shall mark his presence before the SHO of Arakshi Kendra, Civil Lines, District Datia, M.P. on every Saturday of month till final disposal of appeal.
- (4). The appellant shall not extend threat to the complainant party in any manner and shall not involve in criminal activities.

However, in case of breach of any of the precondition of bail, the Trial Court may consider on merit cancellation of bail bonds without any impediment of this order and shall remit the appellant to custody to undergo remaining sentence of imprisonment.

Accordingly, IA No.7715/2024 stands allowed and disposed of. C.C as per rules.