

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO(S). 1758 OF 2012

AMAR SINGH

....APPELLANT(S)

VERSUS

STATE OF MADHYA PRADESH

....RESPONDENT(S)

WITH

CRIMINAL APPEAL NO(S). 1757 OF 2012

CRIMINAL APPEAL NO(S). 946 OF 2015

CRIMINAL APPEAL NO(S). 1491 OF 2018

ORDER

The instant appeals have been preferred by the accused appellants who were convicted for offence punishable under Section 302/149 of the Indian Penal Code(for short "IPC") and sentenced to life imprisonment by the learned Sessions Judge by judgment and order dated 8th November, 1995 and the appeals preferred by the appellants came to be dismissed by the High Court under the impugned

judgment dated 25th February, 2008 which is a subject matter of challenge in appeal before us.

In all, eight accused persons faced trial for committing the murder of father and brother of PW-4 Jaisingh who was the eye-witness of the incident. Out of the eight persons convicted under Section 302/149 IPC by the learned Addl. Sessions Judge, A-4 died pending appeal before the High Court. A-1 and A-8, after undergoing sentence, were granted remission. A-7 has not preferred any appeal and accepted the decision of the High Court upholding his conviction under Section 302/149 IPC and the remaining are A-2, A-3, A-5 and A-6.

It is informed to this Court that A-5 has completed sentence of 20 years without remission and fate of the accused appellants A-2, A-3 and A-6 is dependent on the decision of the present appeals.

The undisputed facts of the present cases are that witnesses Ranjeet and Jaisingh are sons of deceased Khersingh and brothers of deceased Ramkishan. Khersingh and A-4 Phoolsingh are real brothers. Kailash is father-in-law(Kakiya Sasur) of A-7 Vijaysingh. Udaysingh was son of Phoolsingh, who was murdered prior to the present incident. In that case, deceased Khersingh and Ramkishan were accused.

As per case of the prosecution, on the fateful day of 13th January 1994, the case regarding murder of Udaysingh was fixed in the Court of District and Sessions Judge, Shivpuri and deceased Khersingh, Ramkishan and PW-4 Jaisingh had gone to attend the Court on motorcycle bearing registration No. MPH-3362. When they were returning from Shivpuri to their village, the said motorcycle was driven by deceased Ramkishan. Khersingh and Jaisingh were riding as pillion riders. When their motorcycle at about 4.30 p.m. reached ahead the village Tanpur towards Village Manpur, at that time, suddenly from the culvert of Village Tanpur, accused persons Gote, Hakke, Babulal, Amarsingh and Kailash Chand armed with Farsa, Vijaysingh with double barrel gun, Phoolchand with Ballam and Sahabsingh with axe came out from culvert with common object and stopped them in the way.

The accused Babu said to accused Vijay to shoot them as they have murdered his brother Uday. On hearing this, all the three Ramkishan, Khersingh and Jaisingh leaving motorcycle to save themselves ran away towards the fields.

Vijaysingh fired from 12 bore gun and bullet which hit Khersingh and he fell down, then accused Babulal and Hakke blow farsa on Khersingh.

PW-4 Jaisingh and his brother Ramkishan were chased by Amarsingh, Sahabsingh, Phoolchand, Gote and Kailash. Vijaysingh again fired from his gun which hit Ramkishan and he fell down and thereafter Amarsingh blow farsa, Sahabsingh axe, Phoolchand Ballam and Gote and Kailash farsa and assaulted Ramkishan.

PW-4 Jaisingh to save himself ran towards Village Tanpur, then Vijaysingh again fired from his gun but it was missed. After about an hour, when accused left, PW-4 Jaisingh came out on spot and saw that his father and brother were lying dead and they were having mark of bullet and injuries.

After some time, when police reached the spot, PW-4 Jaisingh lodged the report. The police registered criminal case against the accused on the basis of complaint for commission of offence under Sections 148, 302/149 and 307/149 IPC. The matter was committed to the Court of Sessions and the Sessions Court framed charges against the accused for commission of offence under Sections 148, 302/149 and 307/149 IPC. To prove its case, the prosecution has examined as many as 12 witnesses. The Sessions Court, after recording evidence and relying upon the evidence of eye-witness PW-4 Jaisingh and PW-2 Dr. G.D. Agrawal, who conducted the post mortem on the body of the deceased, held all the accused persons guilty and

convicted them for offence under Sections 302/149 and sentenced to life imprisonment under impugned judgment dated 8th November 1995.

On appeal being preferred by the accused appellants, the High Court also under the impugned judgment reappreciated the evidence recorded during the course of prosecution and after assigning cogent reasons, upheld their conviction and sentence by dismissing appeals under the judgment impugned dated 25th February, 2008.

Learned counsel for the appellants has tried to persuade this Court that the statement of PW-4 Jaisingh, sole interested eye-witness of the alleged incident, being the son/brother of the deceased, could not be relied upon and there is no other corroborating evidence on record to uphold conviction which has been recorded by the learned trial Court and confirmed by the High Court under the impugned judgment cannot sustain in the eyes of law.

With the assistance of learned counsel, we have gone through the statement of PW-4 Jaisingh, an eye-witness of the incident which is clear, cogent and withstood the rigor of cross-examination, it becomes sterling not requiring further corroboration and his statement is duly supported by the medical evidence on record. Admittedly, there was previous enmity between the two groups which was the cause to which

the incident had taken place. The FIR was promptly lodged after the incident and their presence on the alleged date of crime also cannot be disputed and either of the appellants has not come out in their defence while recording explanation under Section 313 CrPC.

Taking into consideration the material available on record which we have gone through with the assistance of the counsel, we do not find any error being committed by the High Court under the impugned judgment which may call for our interference.

Before we finally conclude, we would like to observe that since there are guidelines issued by the Government for premature release/remission to the persons convicted by the competent Court, copy has been placed before us for perusal dated 10th January 2012.

We consider it appropriate to observe that A-5 Babu Lal as informed, has completed more than 20 years. The competent authority may consider his case for premature release/remission in terms of the guidelines of the State Government dated 10th January 2012.

We would like to observe further that it is the duty of the State Government to take periodical statements from the Superintendents of the jail authorities across the State and consider the cases of the inmates who have completed their sentence and become eligible for

premature release/remission. The committee may be constituted, which may periodically review such cases and those who are eligible/entitled to seek premature release/remission, respective orders may be passed within the time schedule.

At the same time, it is also expected from the State Legal Services Authority/Committee to take a judicial notice of this fact and extend services to all such inmates who have completed their sentence and become eligible for premature release/remission in providing assistance for availing the legal remedy which the law provides to them.

The appeals are without substance and accordingly dismissed with the observations made above.

Let the appellants who are on bail to surrender and undergo the remainder of sentence and if the appellants fail to surrender within four weeks, action may be taken against them in accordance with law.

A copy of this Order be sent to Secretary, Home Department, State of Madhya Pradesh and to the Chairman, State Legal Services Authority for necessary compliance.

Pending application(s), in any, shall stand disposed of.

.....**J.**
(AJAY RASTOGI)

.....**J.**
(SANJIV KHANNA)

NEW DELHI
APRIL 05, 2022

ITEM NO.102

COURT NO.13

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 1758/2012

AMAR SINGH

Appellant(s)

VERSUS

THE STATE OF MADHYA PRADESH

Respondent(s)

WITH

Cr1.A. No. 1757/2012 (II-A)

Cr1.A. No. 946/2015 (II-A)

Cr1.A. No. 1491/2018 (II-A)

(FOR CONDONATION OF DELAY IN FILING ON IA 57627/2018)

Date : 05-04-2022 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MR. JUSTICE SANJIV KHANNA

For Appellant(s)

Mr. Amit Pawan, AOR
Mr. Abhishek Amritanshu, Adv.
Mr. Hassan Zubair Waris, Adv.
Ms. Shivangi, Adv.
Mr. Aakarsh, Adv.
Mr. Rohit Rajershi, Adv.

For Respondent(s)

Mr. Rahul Kaushik, AOR
Ms. Ankita Choudhary, DAG
Mr. Pashupati Nath Razdan, AOR
Mr. Prakhar Srivastav, Adv.
Mr. Amandeep Bhardwaj, Adv.
Ms. Himanshi Shakya, Adv.

Mr. Arjun Garg, AOR

Ms. Ankita Chaudhary, DAG
Mr. Gopal Jha, AOR
Mr. Shreyash Bhardwaj, Adv.
Mr. Nishant Verma, Adv.
Ms. Mamta Shrivastav, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

The appeals are dismissed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

**(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT**

**(BEENA JOLLY)
COURT MASTER (NSH)**

(signed order is placed on the file)