

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 863 OF 2012

RAJENDRA SINGHAppellant(s)

VERSUS

STATE OF UTTAR PRADESHRespondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1. This appeal is filed by the accused against the final judgment and order dated 3.11.2003 passed by the High Court of Allahabad in Government Criminal Appeal No. 377 of 1999 whereby the High Court reversed the judgment of the Sessions Judge

and convicted the appellant for the commission of offence of murder of Satyapal Singh under Section 302 of Indian Penal Code (hereinafter referred to as “the IPC”) read with Sections 25/27 of the Arms Act.

2. Few facts need mention for disposal of the appeal *infra*.

3. The appellant was prosecuted for commission of the offence of murder of one Satyapal Singh Chauhan by firing a bullet from his revolver on 01.12.1994. Due to gunshot injury caused to Satyapal Singh from the short distance, he died while he was being taken to the hospital after the incident.

4. By order dt 13.11.1998, the learned Sessions Judge, Farrukhabad acquitted the appellant under Section 302 of IPC read with Section 25/27 of the Arms Act. However, in an appeal filed by the State

against his acquittal, the High Court by impugned order reversed the judgment of the Sessions Judge and convicted the appellant for commission of offence of murder of Satyapal Singh under Section 302 of IPC read with 25/27 of the Arms Act giving rise to filing of this appeal by the accused.

5. We have heard the learned counsel for the parties and have also perused the evidence, impugned order and the order of the Sessions Judge.

6. Having scanned the evidence and keeping in view the fact that it is a case of the reversal of the acquittal order, we are inclined to concur with the reasoning and the conclusion arrived at by the High Court rather than to concur with the reasoning and the conclusion arrived at by the Sessions Judge.

7. In other words, having gone through the entire evidence on record, we are of the considered view that the High Court was right in concluding that the prosecution was able to prove the case against the appellant beyond reasonable doubt. The High Court, therefore, rightly held that it was the appellant and no one else who fired a bullet from his revolver within a short range to Satypal Singh, which caused his death immediately after the incident. This finding of the High Court is based on appreciation of evidence which was well within its jurisdiction to do in its first appellate jurisdiction and which it did rightly.

8. It was, however, brought to our notice that the appellant has so far undergone more than 14 years of jail sentence and he still remains in Jail undergoing his sentence.

9. In our opinion, if that were the case then the State can be directed to consider the appellant's case for his remission in terms of the relevant provisions of the Criminal Procedure Code (hereinafter referred to as the "Cr.P.C.") read with Rules. In other words, the appellant is eligible for his release by the State in terms of the Rules in accordance with law depending upon a case made out by him. The State can always pass appropriate orders on appellant's release provided a case to that effect as provided in the Rules is made out.

10. We, therefore, grant liberty to the appellant to apply to the State Government for consideration of his case for release as provided in Cr.P.C. read with the Rules provided the appellant is able to prove that he has completed the mandatory period of his sentence as prescribed in the Cr.P.C./Rules and

satisfy all necessary conditions to the satisfaction of the State.

11. The Jail Authorities would do the needful on behalf of the appellant and will accordingly forward his application along with necessary details to the Competent Authority of the State.

12. The Jail Authorities will complete the formalities and send the appellant's application as directed above to the concerned Competent authority of the State within three months from the date of this order.

13. On receipt of the application, the competent authority of the State will pass appropriate order within 3 months strictly in accordance with law.

14. The Registry to send a copy of this order to the appellant and the concerned Jail Authorities where the appellant is presently undergoing jail sentence within a week as an outer limit to enable them to process the application as directed above.

15. With the aforesaid discussion and the direction, the appeal fails and is accordingly dismissed.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[INDU MALHOTRA]

New Delhi;
October 23, 2018