



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1296 OF 2019

SURYA PRAKASH

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

O R D E R

1. This appeal is directed against the order dated 28.11.2018 passed by the High Court of Judicature at Allahabad in Criminal Appeal No. 1959/1986 whereby and whereunder the High Court confirmed the conviction of the appellant for the offence under Section 300 punishable under Section 302 read with Section 34, of the Indian Penal Code (for short, "IPC").

2. Heard learned senior counsel for the appellant and learned Additional Advocate General for the State of Uttar Pradesh.

3. For the charge under Section 302 read with Section 34 IPC, the appellant stood trial in Sessions Trial No. 52/84, which culminated in his conviction. Consequently, the appellant was sentenced to undergo life imprisonment.

4. Feeling aggrieved by the said conviction and sentence, the appellant preferred the aforementioned Criminal Appeal which culminated in the impugned judgment.

5. Bearing in mind the decision of this Court in "Padam Singh vs. State of U.P." reported in (2000) 1 SCC 621, we have carefully

scanned the impugned judgment. This Court, in *Padam Singh's* case, considered the duty coupled with the power vested in the appellate court while considering the appeal against conviction in a murder case. In unambiguous terms, this Court said that it is the duty of the appellate court to appreciate the evidence adduced in the case and to arrive at an independent conclusion as to whether the said evidence could be relied on or not and even if, it could be relied on, whether the prosecution's case could be said to have been proved beyond reasonable doubt.

6. There cannot be any doubt with regard to the position that an accused facing trial for a charge punishable under Section 302 IPC, upon finding guilty, could be imposed with only one among the two punishments i.e. either life imprisonment or capital punishment. We are not oblivious of the fact that though in terms of the decision of this Court in "Swami Shraddanand @ Murlī Manohar Mishra vs. State of Karnataka" reported in (2008) 13 SCC 767, Constitutional Courts can impose punishment which is not otherwise prescribed i.e. imprisonment for a fixed period without remission. When that being the inevitable consequence of a conviction under Section 302 IPC, it obligates the appellate court to consider the evidence in the case and to arrive at an independent conclusion as has been held in *Padam Singh's* case.

7. The impugned judgment would reveal that no such serious consideration was made while confirming the conviction of the appellant though the sentence imposed on him is imprisonment for life. In such circumstances, we are of the view that instead of appreciating the contentions and evidence, it is only befitting to remand the

matter to enable the High Court to consider the appeal in accordance with law, of course, bearing in mind the law laid down in the decision of this Court in *Padam Singh* (supra).

8. Accordingly, we allow the appeal and set aside the judgment of the High Court in Criminal Appeal No. 1959/1986 and remand the matter for fresh consideration. Consequently, the appeal is restored to its original number on the file of the High Court for disposal.

9. When we are about to part with the case, the learned counsel for the appellant submitted that taking into consideration the fact that during the trial, the appellant was on bail and the alleged incident occurred on 25.12.1981, the appellant may be granted bail pending consideration of the appeal. Taking into account all such circumstances, we suspend the sentence imposed on the appellant in S.T. No. 52/84 and the appellant shall be released on bail, subject to the terms and conditions to be imposed by the Trial Court. In that regard, the appellant shall be produced before the Trial Court forthwith.

.....J.
(C.T. RAVIKUMAR)

.....J.
(SANJAY KAROL)

NEW DELHI;
AUGUST 01, 2024

ITEM NO.9

COURT NO.12

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 1296/2019

SURYA PRAKASH

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

(IA No. 17230/2024 - GRANT OF BAIL)

Date : 01-08-2024 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE C.T. RAVIKUMAR
HON'BLE MR. JUSTICE SANJAY KAROL

For Appellant(s) Mr. Sanjeev Kumar Dubey, Sr. Adv.
Mr. K. V. Mohan, AOR
Mr. Asif Inam, Adv.
Mrs. Pushpam Arya, Adv.
Mr. Zeeshan Ahmad, Adv.

For Respondent(s) Mr. K Parmeshwar, A.A.G.
Mr. Yasharth Kant, AOR
Ms. Kanti, Adv.
Ms. Sonal Kushwah, Adv.
Mr. Suryaansh Kishan Razdan, Adv.

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

The appeal is allowed in terms of the signed order, placed on the file.

Original records be returned immediately.

(DR. NAVEEN RAWAL)
DY. REGISTRAR

(MATHEW ABRAHAM)
COURT MASTER (NSH)