

SUPREME COURT OF INDIA

Bissu Mahgoo

Vs.

State of U.P.

Crl.A.No.92 of 1953

(N. H. Bhagwati, B. Jagannadhadas and T. L. Venkatarama Ayyar, JJ.)

12.02.1954

JUDGEMENT

BHAGWATI, J.:

1. Special leave was granted to the appellant to file this appeal limited to the question of sentence only. Shri Nur-Ud-Din Ahmed appearing for the appellant urged before us, that after the learned Sessions Judge pronounced his judgment and awarded to the appellant the sentence of transportation for life, the State did not file any revision against that sentence but it was the complainant who moved the High Court in revision and the High Court in revision enhanced the sentence from transportation for life to one of death. He also urged that after the decision was pronounced by the High Court on the 16th April, 1951, the appellant filed an application for leave to appeal to the Supreme Court on the 15th, May 1951, and this application for some reason or the other was not disposed of by the High Court till the 13th March, 1953. He, therefore, contended that the sentence of death which was awarded to the appellant should be commuted to one of transportation for life.

2. In regard to the first ground, it is not possible for us to interfere for the simple reason that whether the State filed a revision or the complainant moved the High Court in revision, it was competent to the High Court to go into the question of sentence and it was well within the power of the High Court to enhance to sentence as it did.

3. The second ground, however, is a more serious one. It is a matter of surprise that an application for leave to appeal to the Supreme Court against the sentence of death awarded to the appellant by the High Court, was delayed in disposal for about one year and ten months. It is of the essence that these applications, particularly when the sentence of death is hanging over the head of the accused, should be dealt with great despatch and the accused should know his fate and not be left with the feeling of apprehension, for longer time than necessary. Whatever the state of arrears in a particular High Court, there is absolutely no justification for such an inordinate delay in the disposal of such an application. We, however, do not feel that this would be a consideration for our interfering with the sentence awarded by the High Court.

4. We are of the opinion that both the grounds which have been urged by Shri Nur-ud-Din Ahmed would be good grounds for consideration of the Central Government when an application for commutation of the death sentence is made by the appellant to them.

5. The appeal will, therefore, stand dismissed.

Appeal dismissed.

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