

State of Madhya Pradesh

Vs

Ajit Singh and Others

State of Punjab

Vs

Ajit Singh and Others

Criminal Appeal No. 47 and 48 of 1972

(A.C. Gupta, Syed M. Fazal Ali JJ)

05.05.1976

JUDGMENT

FAZAL ALI, J. -

1. These two appeals are directly covered by our decision in State of Madhya Pradesh v. Ratan Singh ((1976) 3 SCC 470 : 1976 SCC (Cri) 428) just pronounced. The respondent Ajit Singh was sentenced under Section 302 I.P.C. by the Sessions Judge, Bhind in the State of Madhya Pradesh by his order dated January 28, 1960. An appeal against his conviction was dismissed by the High Court and the respondent was lodged in the Central Jail at Gwalior. Sometime thereafter under Section 3 of the Transfer of Prisoners Act, 1950 the Government of Madhya Pradesh transferred the prisoner Ajit Singh at his instance to the Punjab Government where he was lodged in the District Jail at Gurdaspur. Sometime in the year 1968 the prisoner having served for more than 20 years, the Punjab Government made a request to the State of Madhya Pradesh for release of the prisoner and remitting the remaining part of the sentence. The Madhya Pradesh Government, however, declined to pass an order under Section 401(1) of the Code of Criminal Procedure. Thereafter the respondent filed a writ petition in the High Court of Punjab and Haryana praying for quashing the order of the Madhya Pradesh Government. The High Court allowing the writ petition quashed the order of the Madhya Pradesh Government and directed the Government of Punjab to consider the case of the respondent for his release. Against the order of the High Court, both the Madhya Pradesh Government and the Punjab Government have filed these appeals by special leave. These appeals have been heard together. Appeal No. 47 is the appeal preferred by the State of Madhya Pradesh, whereas Appeal Nos. 48 has been preferred by the State of Punjab. Both these appeals arise out of the order of the High Court dated September 8, 1971.

2. We have already held in Criminal Appeal No. 246 of 1971 that the appropriate Government within the meaning of Section 401 of the Code of Criminal Procedure would be the Government of the State in which the prisoner had been convicted and sentenced by the Court of that State. We have also held that the decision of the Madhya Pradesh High Court in Sitaram Barelal v. State of Madhya Pradesh (AIR 1969 MP 252 : 1969 Jab LJ 530) has absolutely no bearing on the question of the remission to be granted under Section 401 of the Code of Criminal Procedure. It is therefore clear that the Punjab Government was fully justified in making a request to the Madhya Pradesh

Government which was the appropriate Government for the purpose of exercising its discretion under Section 401 of the Code of Criminal Procedure and as the Government of Madhya Pradesh refused to exercise its discretion there was no error of law committed by the State Government and the High Court was, therefore, not justified in quashing the order of the Madhya Pradesh Government and directing the Punjab Government to consider the case of the respondent for his release.

3. We, therefore, allow these appeals and set aside the order of the High Court. As the respondent has already been released and at the time of granting the special leave we had directed that the release of the respondent would not be disturbed in any event, while quashing the order of the High Court we would not disturb the order of release of the respondent passed by the Punjab Government as a result of the order of the High Court.

</html