

SUPREME COURT OF INDIA

Ramjan Ali

Vs.

State of Assam

CrI.A.No.1214 of 1998

(B. N. Agarwal and H. K. Sema JJ.)

11.08.2004

ORDER

1. Heard the parties.

2. The appellants were tried for offences under Section 302 read with Section 34 and Section 323 of the Penal Code and by judgment rendered by trial Court, they were acquitted. Against the order of acquittal, when appeal was preferred a learned Single Judge of Gauhati High Court heard the appeal, set aside the judgment of acquittal and convicted the appellants under Section 302 read with Section 34 of the Penal Code and sentenced them to undergo imprisonment for life. Hence this appeal.

3. It appears that under some confusion or mistake in motion, the appeal was placed before learned Single Judge of the High Court of Guwahati, who allowed the appeal, set aside the order of acquittal and convicted the appellants under Section 302 read with Section 34 of the Penal Code and sentenced them to undergo imprisonment for life. It is well-settled that Single Judge of a High Court could hear the appeal only in those cases where maximum sentence that could be awarded is 10 years. In cases where sentence that could be awarded is more than 10 years or imprisonment for life or death, the appeal is required to be heard by a Division Bench. This being the position, we are of the view that learned Single Judge of the High Court acted in excess of jurisdiction in hearing and allowing the appeal.

4. For the foregoing reasons, this appeal is allowed, impugned judgment rendered by the High Court is set aside and the matter is remitted to the High court for hearing the appeal by a Division Bench after giving opportunity of hearing to the parties.