

State of Madhya Pradesh

v.

Sughar Singh & Others

(Supreme Court Of India)

HON'BLE CHIEF JUSTICE MR. K.G. BALAKRISHNAN HON'BLE MR. JUSTICE S.H. KAPADIA HON'BLE MR. JUSTICE ALTAMAS KABIR HON'BLE MR. JUSTICE R.V. RAVEENDRAN

State of Madhya Pradesh v. Sughar Singh & Others

Criminal Misc. Petition No. 8323-26 Of 2010 & Curative Petitions (Crl.) No. 7-8 Of 2009 In Rp (Crl.) No. D 37915 Of 2008 In Crl.As. No. 1362-63 Of 2004 With Curative Petition (Crl.) No. D 6924 Of 2009 | 21-04-2010

1. The order dated 9-3-2010 (State of M.P. v. Sughar Singh (2010) 3 SCC 719 : (2010) 2 SCC(Cri) 463) is recalled and this revised order is being passed.
2. The Sessions Judge, Shivpuri in the State of Madhya Pradesh had tried eight persons, namely, Bhoja, son of Bhagwan Singh Gujjar, Raghubir, son of Bhagwan Singh Gujjar, Puran, son of Bhagwan Singh Gujjar, Sughar, son of Khuman Singh Gujjar, Laxman, son of Khuman Singh Gujjar; Omkar, son of Sita Ram; Balbir, son of Babu Lal Gujjar; Ramesh, son of Hari Ram, and all of them were convicted for the offences punishable under Section 302 read with Section 149 IPC and other allied offences. These eight accused persons filed two separate appeals viz., Criminal Appeal No. 242 of 1992 and Criminal Appeal No. 253 of 1991 before the High Court of Madhya Pradesh, challenging their conviction and sentence.
3. The High Court acquitted all the accused persons and aggrieved by the said acquittal, the State filed criminal appeal before this Court, which was numbered as Criminal Appeals Nos. 1362-63 of 2004.
4. In the criminal appeal filed by the State, four accused, namely, Sughar Singh, Laxman, Omkar and Ramesh alone were made respondents and the other four accused, namely, Bhoja, Raghubir, Puran and Balbir were not made parties. So, in effect, the State has not filed any appeal against the acquittal passed by the High Court against Bhoja, Puran, Balbir and Raghubir. Therefore, their acquittal by the High Court stands confirmed.
5. As regards the other four accused namely, Sughar Singh, Laxman, Omkar and Ramesh, this Court by judgment dated 7-11-2008 (State of M.P. v. Sughar Singh, (2008) 15 SCC 442 : (2009) 3 SCC (Cri) 1078) set aside the acquittal of these accused by the High Court and they have been convicted under Section 304 Part II read with Section 149 IPC. The operative portion of the judgment dated 7-11-2008 (State of M.P. v. Sughar Singh, (2008) 15 SCC 442 : (2009) 3 SCC (Cri) 1078) reads thus: (SCC p. 446, para 23)

“23. The appeals are partly allowed and the accused are convicted for the offence punishable under Section 304 Part II read with Section 149 IPC and they are ordered to undergo rigorous imprisonment

for six years. Since the order of acquittal was recorded by the High Court, the respondent-accused are ordered to surrender to undergo the remaining period of sentence. It is needless to clarify that the period during which the accused had remained in jail will be adjusted.”

6. The question may arise whether the conviction of Sughar Singh, Laxman, Omkar and Ramesh, is valid in law in view of the State not filing an appeal against the other four co-accused. We, accordingly, recall the order dated 7-11-2008 (State of M.P. v. Sughar Singh, (2008) 15 SCC 442 : (2009) 3 SCC (Cri) 1078) of this Court and direct that Criminal Appeal Nos. 1362-63 of 2004 be heard again.

7. As against accused Bhoja, Raghubir, Puran and Balbir, there was no appeal filed by the State challenging the order of acquittal passed by the High Court. As their acquittal has become final, they are entitled to be released from jail.

8. We are told that after the disposal of Criminal Appeal Nos. 1362-63 of 2004 on 7-11-2008 (State of M.P. v. Sughar Singh, (2008) 15 SCC 442 : (2009) 3 SCC (Cri) 1078), accused Bhoja, Balbir and Puran were taken into custody and lodged in Shivpuri Jail, District Shivpuri, Madhya Pradesh. It is stated by the counsel for the applicants that they have now been transferred to Sub-Jail, Datia, District Datia, Madhya Pradesh. We direct that accused Bhoja, Puran and Balbir be released forthwith, if not required in any other case. Copy of this order is directed to be send to the Jail Superintendent, Sub-Jail, Datia, District Datia, Madhya Pradesh forthwith.

9. As far as Raghubir is concerned, no further order is required to be passed as he was not rearrested and taken into custody after the judgment of this Court. Warrant, if any, issued against Raghubir will stand cancelled.

10. As the judgment dated 7-11-2008 (State of M.P. v. Sughar Singh, (2008) 15 SCC 442 : (2009) 3 SCC (Cri) 1078) Passed in Criminal Appeals Nos. 1362-63 of 2004 is recalled, the respondent-accused, namely, Sughar Singh, Laxman, Omkar and Ramesh will be given fresh notice and they need not surrender to the warrant, if any, issued against them in this case.

11. Post Criminal Appeals Nos. 1362-63 of 2004 for hearing at an early date.