

SUPREME COURT OF INDIA

State of Uttar Pradesh

Vs.

Narendra

Crl.A.Nos.1551-1554 of 2008

(M.Y. Eqbal and Pinaki Chandra Ghose JJ.)

22.09.2014

JUDGMENT

M.Y. EQBAL, J.

1. These appeals by special leave by the State are directed against the common judgment and order dated 27th May, 2005 passed by the High Court of Judicature at Allahabad in Criminal Appeal Nos. 2181, 1997, 2027, 2129, 2936 and 2903 of 2004 and Criminal Reference No. 7 of 2004 (for confirmation of death sentence of accused Manoj, Sonu, Umesh, Tej Pal and Narendra), whereby appeals of accused Dinesh and Sheo Pal was allowed acquitting them of the charges and appeals of accused Manoj, Sonu, Umesh, Tej Pal and Narendra were partly allowed converting their death sentence to life imprisonment.

2. The facts in brief leading to the filing of the present case are that one Pushplata alias Guddy (PW-1) lodged a report at Police station Deoband, Saharanpur that there was a dispute and enmity between her husband Dr. Rajveer Singh and brother-in-law Rajpal Singh with regard to a land and litigation which was pending in the Court. Due to said enmity, on 3.6.2001 at about 7.00 AM Manoj, Sonu alias Ajay, Umesh and Sunil armed with country made pistols and Tej Pal, brother in-law of Sonu, Narendra, son-in-law of Rajpal Singh armed with knives came to her house and killed her husband, sons Manish and Ashish and her brother Vinod with fire arms and knives. She stated that she along with her mother, brother Amit and several other persons

witnessed the occurrence. Inspector Amrit Lal (PW-5) reached at the place of occurrence and instructed S.I. Azad Singh Chauhan (PW-6) to prepare the inquest memos. He prepared the site plan and recorded the statement of informant Pushplata, witnesses Amit Kumar, Anar Devi and Ram Singh (PW-2). He also collected the blood stained earth, plain earth, bed sheet, plain cement, empty cartridges and prepared the recovery memos. After conducting the postmortem of the deceased Rajbir, Manish, Ashish and Vinod on 3.6.2001, Dr. R.R. Gahlot (PW-3), Medical Officer, S.B.D. Government Hospital, Saharanpur opined that the death was caused by shock and haemorrhage as a result of ante mortem injuries. The investigating Officer after obtaining permission from District Magistrate, Saharanpur filed charge-sheet in the court under Section 25 of Arms Act against the accused Manoj, Sonu@ Ajay and Umesh.

3. The trial court framed charges under Sections 148, 452, 302/149 and 302/120-B against Manoj, Sonu, Umesh, Tejpal, Narendra, Rajpal, Dinesh and Shiv Pal. Accused Manoj, Sonu alias Ajay and Umesh were further charged under Section 25 of the Arms Act. The prosecution, in order to prove its case, examined ten witnesses out of which PW1 and PW-2 are the eye witnesses of the occurrence. Whereas the defence examined five witnesses.

4. During the course of trial accused Rajpal expired, hence the case was dropped against him and trial of remaining accused continued. The trial court by its order dated 31.3.2004 passed in S.T. Case No.885 of 2001 convicted the accused Manoj, Sonu, Umesh, Tej Pal and Narendra under Section 302/149 IPC and sentenced to death, under Section 148 IPC sentencing them to undergo rigorous imprisonment (R.I. for short) for three years and under Section 452 IPC sentencing them to undergo RI for five years and a fine of Rs. 3000/-, in default of payment of fine R.I. for three months. Accused Manoj, Sonu and Umesh were further convicted under Section 25 of the Arms Act and sentenced to undergo imprisonment for two years. Accused Dinesh and Shiv Pal were convicted under Section 302/120-B, IPC and sentenced to undergo imprisonment for life and a fine of Rs. 10,000/- each, in default of payment of fine R.I. for one year.

5. Aggrieved by the decision of the trial court, the accused preferred appeals before the High Court of judicature at Allahabad. After hearing the learned counsel for the parties and analyzing the evidence, the High Court opined that considering the overall

circumstances of the case, this case does not fall within the category of rarest of rare case and it cannot be said that imprisonment for lesser sentence of life term altogether foreclosed. The High Court observed that compassion in sentence is also a key factor and it allows the scars to heal. Longevity of incarceration may make them see reason. Passage of time may make them ponder over the crime they had committed. This might have arisen in them a feeling of remorse and repentance. Dismissing the Criminal Reference and partly allowing accused personsTM appeals, the High Court converted the death sentence awarded to the accused Manoj, Sonu, Umesh, Tej Pal and Narendra into imprisonment for life. Appeals of accused Dinesh and Sheo Pal were allowed and they were acquitted of all the charges.

6. Hence, the present Appeals by Special Leave preferred by the State.

7. We have heard Mr. Ratnakar Dash, learned senior counsel appearing for the State and Ms. Sandhya Goswami, learned counsel appearing for the respondents. We have given our final consideration in the matter and have gone through all the facts and circumstances of the case and evidence adduced by the prosecution side. We do not find any reason to disagree with the view taken by the High Court in reducing the death sentence into life imprisonment.

8. For the reasons above stated, we donTMt find any merit in these appeals and the same are dismissed.