

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No. 514 of 2019

Amjad Gaddi	---	---	Appellant
	Versus		
The State of Jharkhand	---	---	Respondent

CORAM: **Hon’ble Mr. Justice Aparesh Kumar Singh**
 Hon’ble Mr. Justice Kailash Prasad Deo
 Through: Video Conferencing

For the Appellant: M/s B.M. Tripathy, Sr. Advocate, Naveen Kr. Jaiswal, Advocate
For the Respondent: Mrs. Vandana Bharti, A.P.P

06 / 25.01.2022 This appellant has been convicted for the offence punishable under section 302 of the Indian Penal Code while other co-accused tried under section 302/34 of the Indian Penal Code have been acquitted of the charges vide impugned judgment dated 16.03.2019 passed in Sessions Trial No. 627/2016 by the court of learned Additional Judicial Commissioner-V, Ranchi and appellant has been sentenced to undergo imprisonment for life with a fine of Rs. 20,000/- and default sentence vide order of sentence dated 19.03.2019.

2. Learned Senior Counsel for the appellant, after some argument, does not seek to press the prayer for suspension of sentence, though he seeks liberty to raise the plea relating to non-framing of charge under section 27 of the Arms Act by the learned Trial Court at the time of hearing. He submits that his conviction under section 302 of the Indian Penal Code is based on the finding that murder was caused by use of illegal weapon by this appellant. Non-framing of charge under section 27 of the Arms Act and non-recording of any conviction thereunder therefore is a glaring illegality which has vitiated the entire trial.

3. Reference may be made to the order dated 23.09.2021. Counter affidavit has been filed on behalf of Deputy Director, Prosecution, Home, Prison and Disaster Management, Government of Jharkhand on 02.11.2021. Learned A.P.P Mrs. Vandana Bharti, after referring to the contents of the counter affidavit, has controverted the plea and stated that all incriminating materials including the weapon of assault were adduced during the trial by the prosecution and confronted to the accused. Even if charge was not framed under section 27 of the Arms Act, no prejudice could be shown on the part of the appellant causing miscarriage of justice. She, however, does not oppose the prayer

2.

relating to non-pressing of the I.A. for suspension of sentence on the part of the appellant.

4. In view of the prayer made on behalf of the appellant, I.A. No. 4058/2021 is dismissed as not pressed. Learned counsel for the appellant however, seeks liberty to make a prayer for early hearing of this appeal. He is at liberty to do so before the appropriate Bench.

Needless to say, all grounds as are available to the appellant on facts and in law are open for him to be raised before the court when the matter is to be finally heard.

(Aparesh Kumar Singh, J)

(Kailash Prasad Deo, J)

Ranjeet/