



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Criminal Appeal (DB) No. 81/2026
CNR: RJHC020145702026 | URN: CRLAD / 139U / 2026

State of Rajasthan, Through Public Prosecutor

----Appellant

Versus

1. Anita Meena W/o Chetan Prakash Galana D/o Bajranglal, Aged About 32 Years, R/o Gayatri Mandir Ke Peeche Jhalawar Thana Kotwali Jhalawar, District Jhalawar.
2. Santosh Nirmal S/o Sureshchand, Aged About 30 Years, R/o 1 E 15, Housing Board Jhalawar Thana Kotwali Jhalawar, District Jhalawar.

----Accused-Respondents

For Appellant(s)	:	Mr. Amit Kumar Punia, P.P.
For Respondent(s)	:	Mr. Sanjay Kumar Sharma Mr. Kunal Saini with Mr. Tushar Panwar Mr. Chetan Patidar Mr. Rohit Mahrda Mr. Satish Kr. Gurjar Mr. Mukul Rao Mr. Deepak Tilwaria

**HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL
HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA**

Judgment / Order

06/08/2026

This criminal appeal is filed by the State under Section 418 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for enhancement of sentence awarded to the accused-respondents vide judgment impugned dated 14.05.2025 passed by the Court of learned Special Judge, SC/ST (Prevention of Atrocities) Cases, Jhalawar (for short, 'the learned trial Court') in Sessions Case No.128/2018 (CIS No.128/2018) whereby, they have been convicted and sentenced as under:-

**Accused-Respondent No.1-Anita Meena:-**

- 1. Under Section 302/120-B IPC:** Fourteen years' imprisonment and fine of ₹1,00,000/-; in default whereof, one year's additional imprisonment.
- 2. Under Section 364/120-B IPC:** Fourteen years' imprisonment and fine of ₹1,00,000/-; in default whereof, one year's additional imprisonment.
- 3. Under Section 201/120-B IPC:** Seven years' rigorous imprisonment and fine of ₹50,000/-; in default whereof, six month's additional rigorous imprisonment.

Accused-Respondent No.2-Santosh Nirmal:-

- 1. Under Section 302/120-B IPC:** Fourteen years' rigorous imprisonment and fine of ₹1,00,000/-; in default whereof, one year's additional imprisonment.

All the sentences to run concurrently.

Learned Public Prosecutor, inviting attention of this Court towards the provision of Section 120-B read with Section 109 IPC, would submit that the punishment provided for abetment of offence, if not provided separately, would be the same as provided for the offence abetted and since, no express sentence is provided for abetment of the offence of murder, learned trial Court erred in awarding the sentence of fourteen years instead of the life imprisonment as awarded to the co-accused while recording their conviction under Section 302 IPC. He, therefore, prays that the appeal be allowed, the judgment impugned dated 14.05.2025 be quashed and set aside to the extent of sentence awarded to the accused-respondents and the matter may be remanded back to the learned trial Court for awarding the appropriate sentence.



Issue notice.

Notice on behalf of the respondent No.1-Anita Meena is accepted by Mr. Sanjay Kumar Sharma-learned counsel and notice on behalf of the respondent No.2-Santosh Nirmal is accepted by Mr. Kunal Saini-learned counsel.

On the joint request of the learned counsels for the respective parties, the matter is heard on its merit today itself.

Learned counsels for the accused-respondents do not dispute the submission made by the learned Public Prosecutor; rather, agree that the matter requires remand on the issue of sentence.

Heard. Considered.

While convicting the accused-respondents under section 302/120-B IPC, they have been sentenced to fourteen years. While, the accused respondent-Anita Meena was sentenced to fourteen years imprisonment, the accused respondent-Santosh Nirmal was sentenced to fourteen years' rigorous imprisonment.

Section 120-B of the IPC provides as under:-

"120B. Punishment of criminal conspiracy.—

(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death,²[imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both."



Thus, if no express provision is made in the Code for punishment of the conspiracy to commit an offence, as provided under sub-Section (1), the punishment has to be in the manner as if the accused had abetted such offence.

Section 109 of the IPC provides the punishment of abetment as under:-

"109. Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.—Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence."

Thus, as per the Section 109 IPC, if no express provision is made in the Code for punishment of such abetment, the accused shall be punished with the punishment provided for the offence.

Indisputably, there is no express provision under the Code providing punishment of the abetment to commit the offence of murder and therefore, the punishment has to be as provided for the murder.

Section 302 of the IPC provides the punishment for murder as under:-

"302. Punishment for murder.—Whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine."



A perusal of the judgment impugned reflects that the accused-respondents have not been punished in accordance with the scheme of statutory provisions provided upon conviction under Section 302/120-B IPC, a position not disputed even by their learned counsels. Therefore, in view of the aforesaid admitted position, the matter requires to be remanded qua sentence.

We also notice that the respondent No.1-Anita Meena, upon her conviction under Section 364/120-B IPC, was sentenced to fourteen years' imprisonment with fine. However, Section 364 of the IPC provides the sentence as under:-

"364. Kidnapping or abducting in order to murder.—Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, shall be punished with imprisonment for life or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. "

Thus, the sentence awarded to her is found not to be in consonance with the aforesaid provision.

In the conspectus of aforesaid analysis, the appeal deserves to be allowed.

Resultantly, the appeal is allowed. The judgment impugned dated 14.05.2025 is quashed and set aside to the extent of sentence to the accused-respondents, namely, Anita Meena and Santosh Nirmal and the matter is remanded back to the learned trial Court to pass a fresh order with regard to appropriate sentence to the accused-respondents, in accordance with law.



Since, the accused-respondents are behind bars, the learned trial Court is requested to expedite the proceeding.

Office is directed to remit the record forthwith with a special messenger to the jurisdictional trial Court with a direction to it to send the same back immediately once the needful is done.

(CHANDRA SHEKHAR SHARMA),J

(MAHENDAR KUMAR GOYAL),J