

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 187 OF 2005

State of Rajasthan

...Appellant

Versus

Banna Lal & Ors.

...Respondents

O R D E R

1. The State of Rajasthan has challenged the judgment and order dated 08/08/2003 passed by the Rajasthan High Court in D.B. Criminal Appeal No.304 of 2000. The respondents were tried by the Additional Sessions Judge, Malpura, Tonk (Rajasthan) for offences punishable under Sections 147, 148, 323, 447, 325, 325 read with 149, 302 and 302 read with 149 of the Indian Penal Code (IPC). The Sessions Court convicted respondent No.1 Bannalal under Section 302 IPC and sentenced him to suffer life imprisonment. Respondent No.1 was also convicted under Section 325 read with Section 34 of the IPC and sentenced to suffer rigorous imprisonment for one year. He was also convicted under Sections 147 and 323 read with Section 149 of the IPC and sentenced to suffer imprisonment for three months for each of the said offences. It is not necessary to refer to the sentence awarded to respondent No.2, Bholu because we are informed that he is dead. Respondent No.3 Bhanwarlal and Respondent No.4 Sakram were convicted under Section 325 of the IPC and sentenced to suffer imprisonment for one year each for the said offence. They were also sentenced for offence punishable under Section 147 of the IPC and under Section 323 read with Section 149 of the IPC and sentenced to suffer three months imprisonment each for each of the said offences. Respondent No.5 Ramdev was convicted under Sections 148 and 323 of the IPC and sentenced to suffer imprisonment for three months each for each of the said offences. Appropriate default sentence and fine were also imposed on each of the respondents. All the substantive sentences were ordered to run concurrently. The respondents carried appeals to the High Court. By the impugned order, the High Court allowed the appeals of the deceased-accused Bholu, respondent-Bhanwarlal, respondent-Sakram and respondent-Ramdev. The High Court acquitted them. So far as respondent Bannalal is concerned, the High Court partly allowed his appeal. His conviction under Sections 302, 325 read with Section 34, Section 147 and Section 323 read with Section 149 of the IPC was set aside. He was held guilty of culpable homicide not amounting to murder and was sentenced to the period already undergone by him under Section 304 Part II of the IPC. Respondent-Bannalal was ordered to be released forthwith, if not required in any other case.

2. The State of Rajasthan has challenged the acquittal of respondents Bhanwarlal, Sakram and Ramdev. It has also challenged acquittal of Bannalal of offence under Section 302 of the IPC. The State has taken exception to the High Court's view that Bannalal is not guilty of murder, but is guilty of culpable homicide not amounting to murder and to the High Court's sentencing him under Section 304 Part II of the IPC to period already undergone by him.

3. We have heard learned counsel for the State of Rajasthan. He submitted that he is not pressing the appeal so far as Bhanwarlal, Sakram and Ramdev are concerned as each of them had to undergo only one year imprisonment on account of concurrency granted by the High Court and they have undergone the said sentence. He submitted that the High Court, however, erred in acquitting respondent-Bannalal of offence punishable under Section 302 of the IPC and convicting him for having committed culpable homicide not amounting to murder and sentencing him under Section 304 Part II of the IPC. He further submitted that it was wrong on the part of the High Court to sentence him to the period already

undergone by him.

4. Since the State has not pressed appeal against respondents Bhanwarlal, Sakram and Ramdev, we are concerned only with the State's appeal qua respondent-Bannalal. We were informed by learned counsel appearing for the State that respondent-Bannalal had undergone five years sentence on the date of the impugned judgment and by reason of the impugned order, he was released from jail. We have carefully perused the evidence on record and we are inclined to concur with the reasoning of the High Court. We do not find that the High Court has committed any illegality in setting aside the respondent-Bannalal's conviction under Section 302 of the IPC; in convicting him for culpable homicide not amounting to murder and in sentencing him under Section 304 Part II of the IPC. Besides, we notice that the incident in question took place on 23/04/1998. Respondent-Bannalal has already been released from jail. Apart from our view that the High Court's reasoning merits no interference, these facts also persuade us not to interfere with the impugned judgment.

5. In the circumstances, we dismiss the appeal.

.....J.  
(Ranjana Prakash Desai)

.....J.  
(Madan B. Lokur)

New Delhi;  
January 28, 2014.

ITEM NO.101

COURT NO.13

SECTION II

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
CRIMINAL APPEAL NO(s). 187 OF 2005

STATE OF RAJASTHAN

Appellant (s)

VERSUS

BANNA LAL & ORS.

Respondent(s)

Date: 28/01/2014 This Appeal was called on for hearing today.

CORAM : HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI  
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Appellant(s)

Mr. Milind Kumar, Adv.

For Respondent(s)

Mr. Sushil Kumar Jain, Sr. Adv.  
Ms. Chhaya Kirti, Adv.  
Mr. Navdeep, Adv.  
Ms. Pratibha Jain, Adv.

UPON hearing counsel the Court made the following  
O R D E R

The appeal is dismissed in terms of the signed order.

[Gulshan Kumar Arora]  
Court Master

[Indu Pokhriyal]  
Court Master

(signed order is placed on the file)