

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No(s). 2030/2010

CHHANGA

Appellant(s)

VERSUS

AASU & ORS.

Respondent(s)

WITH

Criminal Appeal No. 2031/2010

SUFEDA & ORS.

Appellant(s)

VERSUS

STATE OF RAJASTHAN

Respondent(s)

Criminal Appeal No. 2032/2010

STATE OF RAJASTHAN

Appellant(s)

VERSUS

AASU & ORS.

Respondent(s)

O R D E R

These appeals arise out of impugned judgment and order dated 3rd December, 2007 passed by the High Court of Rajasthan, Bench at Jaipur in D.B. Criminal Appeal No. 411 of 2003 filed by 11 accused persons who were convicted and sentenced by the trial Court for offences under Sections 302/149, 147 and 148, IPC.

2. The High Court, by the said judgment, dismissed the appeal against accused Nos. 1, 2 and 4 and allowed the appeal of accused Nos. 5 to 11 while abating the appeal of accused No. 12 who has died during its pendency. Being aggrieved thereby, the

complainant and State of Rajasthan have filed Criminal Appeals 2030 and 2032 of 2010, respectively whereas Criminal Appeal No. 2031 of 2010 has been filed by the accused Nos. 1, 2 and 4 against their conviction and sentence.

3. We are informed that accused Nos. 6 and 7 (Umar Khan and Mast Khan) have already passed away. It is also noticed from the record that their names stood deleted from the array of parties by this Court's order dated 30-11-2015 in Criminal Appeal No. 2032 of 2010. Accordingly, the appeal against them in Criminal Appeal No. 2030 of 2010 stands abated.

4. We have heard learned counsel appearing for the parties at length. Mr. Imtiaz Ahmed, learned counsel appearing for the accused-respondents in Criminal Appeal No.2030/2010 submits that he has not been served with notice in the Criminal Appeal No.2032/2010 filed by the State of Rajasthan. Since the office report indicates that notice has already been served on those respondents for whom Mr. Imtiaz Ahmed is already appearing in Criminal Appeal No.2030/2010 he is directed to appear and assist the Court in this matter also.

5. During the course of arguments, Mr. Ranbir Singh Yadav, learned counsel for the appellant in Criminal Appeal No.2030/2010 has informed us that the appellant-complainant Mr. Chhanga has died and a copy of his death certificate has also been placed before us. Accordingly, the Criminal Appeal No. 2030 of 2010

stands abated.

6. However, learned counsel appearing for accused Nos. 1, 2 & 4 as well as the counsel representing the State submitted that the High Court's Judgment is without reasoning and non-speaking one, particularly it failed to consider the material evidence placed before it. In only one paragraph (Para 7), the High Court came to the conclusion and passed the Judgment.

7. On going through the judgment of the High Court, we find that the High Court has disbelieved the occurrence of incident for the simple reason that in presence of two police personnel armed with pistols, no one can dare to make an assault on the victims. However, there was no discussion of reasons in its Judgment for reaching to that conclusion. It gives the impression that the High Court has not adequately appreciated the evidence on record, but passed a rhetoric order of acquittal in haste. In the same manner, without there being sufficient reasoning, the High Court simply declared that since the prosecution has established that two persons were killed by accused Nos. 1, 2 and 4 by forming unlawful assembly, their presence was established and therefore they have been convicted. In our opinion, the judgment of the High Court ought to have been with appropriate reasoning depicting the analysis of evidence in the true perspective of the facts and circumstances of the case.

8. In view of the foregoing, we are of the view that it is necessary to set aside the Judgment of the High Court and remand the matter back to it for proper consideration and a reasoned judgment. Accordingly, we remand the matter to High Court with a request to dispose of the same within a period of six months from the date of communication of this order, on merits after providing an opportunity of hearing to all the parties.

9. We make it clear that we have not expressed any opinion on the merits of the case. However, we direct that the accused who are already on bail shall continue to remain on bail till the disposal of the matter by the High Court.

10. The Appeals are disposed of in the afore-stated terms.

.....J.
(N.V. RAMANA)

.....J.
(S. ABDUL NAZEER)

NEW DELHI;
DECEMBER 05, 2017.

ITEM NO.24

COURT NO.9

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 2030/2010

CHHANGA

Appellant(s)

VERSUS

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Respondent(s)

WITH

Crl.A. No. 2032/2010 (II)

Crl.A. No. 2031/2010 (II)

Date : 05-12-2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE S. ABDUL NAZEER

For Appellant(s)

Mr. S.S. Shamsbery, AAG

Mr. Amit Sharma, Adv.

Mr. Sandeep Singh, Adv.

Mr. Ankit Raj, Adv.

Ms. Indira Bhakar, Adv.

Mr. Milind Kumar, AOR

Mr. Ranbir Singh Yadav, AOR

Ms. Anzu K. Varkey, Adv.

Mr. Imtiaz Ahmed, Adv.

Ms. Naghma Imtiaz, Adv.

Mr. Ahmed Zargham, Adv.

Ms. Amra Moosavi, Adv.

For M/S. Equity Lex Associates, AOR

For Respondent(s)

Mr. S.S. Shamsbery, AAG

Mr. Amit Sharma, Adv.

Mr. Sandeep Singh, Adv.

Mr. Ankit Raj, Adv.

Ms. Indira Bhakar, Adv.

Mr. Milind Kumar, AOR

Mr. Imtiaz Ahmed, Adv.
Ms. Naghma Imtiaz, Adv.
Mr. Ahmed Zargham, Adv.
Ms. Amra Moosavi, Adv.
For M/S. Equity Lex Associates, AOR

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

These appeals are disposed of in terms of the signed order.

(SUKHBIR PAUL KAUR)
AR CUM PS

(RENUKA SADANA)
ASST.REGISTRAR

(Signed order is placed on the file)