

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). 792 OF 2003

STATE OF U.P.

Appellant (s)

VERSUS

SIYA RAM & ANR.

Respondent(s)

Date: 05/08/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI
HON'BLE MR. JUSTICE C.K. PRASAD

For Appellant(s)

Mr. Ratnakar Dash, Sr. Adv.
Mr. Manoj Dwivedi, Adv.
Mr. Gunnam Venkateswara Rao, Adv.

For Respondent(s)

Mr. S.R. Singh, sr. Adv.
Mr. H. Tyagi, Adv.
Mr. Avnish Singh, Adv.
Mr. Abhish Kumar, Adv.

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

The appeal is partly allowed.

[SUMAN WADHWA]
COURT MASTER

[VINOD KULVI]
COURT MASTER

Signed Reportable order is placed on the file.
REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 792 OF 2003

STATE OF U.P.

.. APPELLANT(S)

vs.

SIYA RAM & ANR.

.. RESPONDENT(S)

O R D E R

Three persons were sent for trial for an offence punishable under Section 307 read with Sec. 34 of the IPC. Net Ram was acquitted by the Trial Court and on an appeal taken by the other two accused Siyaram and Jiya Lal, the conviction of Jiya Lal was maintained whereas Siyaram was acquitted on the ground that no injury had been caused by the shot allegedly fired by him. While dealing with Jiya Lal's case the High Court further observed:

"However, appeal by the appellant Jiya Lal is dismissed. The conviction order against him is also maintained. Looking however to the facts and circumstances that the occurrence had taken place as back as in the year 1988 and the appellant Jiya Lal has now become an aged person and there is nothing on record to show that he is either habitual offender or previous convict, he also deserves lenient view.

Considering all facts and circumstances of the case as well as age, character and other antecedents of the appellant Jiya Lal, I find that it will meet the ends of justice if the sentence awarded to the appellant Jiya Lal is modified and reduced."

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The High Court accordingly reduced the sentence to that already undergone but imposed a fine of Rs.10,000/- and in default of payment of fine R.I. for a period of 2 years.

This appeal has been filed at the instance of the State of Uttar Pradesh. It has been contended by Mr. Ratnakar Das, the learned senior counsel for the State that the finding of the High Court acquitting Siyaram was not justified as he had been tried for the offence under Sec.307/34 and merely because the shot fired by him had not hit the intended victim, was not a valid ground for acquittal. In so far as Jiya Lal is concerned Mr. Das has submitted that the sentence had been drastically reduced which was not justified in the circumstances.

We have heard the learned counsel for the parties and have gone through the record. We are not inclined to interfere in the acquittal of Siya Ram for the reasons recorded by the High Court, as the propensity to implicate falsely is not uncommon in India. We however do agree with Mr. Das that the reduction in the sentence in case of Jiya Lal to already undergone was somewhat inadequate but as

prosecution had been initiated in the year 1988, we are not inclined to interfere on the term of imprisonment. We, however, direct that the fine be increased to Rs.25,000/-

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in all and in default of payment of fine the appellant Jiya Lal shall undergo 2 years R.I. The fine will be paid within three months from now to Banshi Lal, the injured and if Banshi Lal is not available, to his legal representatives.

The appeal is accordingly partly allowed in the above terms.

.....J.
(HARJIT SINGH BEDI)

.....J.
(C.K. PRASAD)

New Delhi,
August 5, 2010.