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Cr1.A.No. 1214 OF 1998

ITEM NO. 108

COURT No. 8

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.1214/1998

Ramjan Ali & Ors.

Appellant(s)

Versus

State of Assam

Respondent(s)

(With office report)

DATE : 11/08/2004

This/These matter/matters was/were
called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE H.K. SEMA

For Appellant(s)Mr. R Rajendra Nair, Adv.

Mr. Shakil Ahmed Syed, Adv.

For Respondent(s) Mr. V.K. Sidharthan, Adv.

forM/s Corporate Law Group, Advs.

UPON hearing counsel the Court made the following

O R D E R

Appeal is allowed, impugned judgment rendered by the High court is set aside and the matter is remitted to the High Court for hearing the appeal by a Division Bench after giving opportunity of hearing to the parties.

[Charanjeet Kaur]
Court Master

[Om Prakash]
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1214 OF 2004

Ramjan Ali & Ors.

..

Appellant(s)

Versus

State of Assam

..

Respondent(s)

O R D E R

Heard the parties.

The appellants were tried for offences under Section 302 read with Section 34 and Section 323 of the Penal Code and by judgment rendered by trial Court, they were acquitted. Against the order of acquittal, when appeal was preferred a learned Single Judge of Gauhati High Court heard the appeal, set aside the judgment of acquittal and convicted the appellants under Section 302 read with Section 34 of the Penal Code and sentenced them to undergo imprisonment for life. Hence this appeal.

It appears that under some confusion or mistake in motion, the appeal was placed before learned Single Judge of the High Court of Guwahati, who allowed the appeal, set aside the order of acquittal and convicted the appellants under Section 302 read with Section 34 of the Penal Code and sentenced them to undergo imprisonment for life. It is well-settled that Single Judge of a High Court could hear the appeal only in those cases where maximum sentence that could be awarded is 10 years. In cases where sentence that could be

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awarded is more than 10 years or imprisonment for life or death, the appeal is required to be heard by a Division Bench. This being the position, we are of the view that learned Single Judge of the High Court acted in excess of jurisdiction in hearing and allowing the appeal. For the foregoing reasons, this appeal is allowed, impugned judgment rendered by the High Court is set aside and the matter is remitted to the High court for hearing the appeal by a Division Bench after giving opportunity of hearing to the parties.

.....J[B.N. AGRAWAL]

.....J [H.K. SEMA]

NEW DELHI,
AUGUST 11, 2004.