

ITEM NO.107

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. 1801/2008

STATE OF RAJASTHAN

APPELLANT(S)

VERSUS

BHINYA RAM & ORS.

RESPONDENT(S)

(WITH APPLN. (S) FOR EXEMPTION FROM FILING O.T. AND EX-PARTE STAY
AND OFFICE REPORT)

WITH

CRL.A. NO. 1799/2008

(WITH OFFICE REPORT)

CRL.A. NO. 1800/2008

(WITH OFFICE REPORT)

Date : 13/08/2015 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE N.V. RAMANA

For parties (s)

Mr. Shiv Mangal Sharma, AAG

Mr. Puneet Parihar, Adv.

Mr. Sitesh Narayan Singh, Adv.

Mr. Saurabh Rajpal, Adv.

Ms. Ruchi Kohli, Adv.

Mr. Ansar Ahmad Chaudhary, Adv.

Mr. Milind Kumar, Adv.

Mr. Pushpinder Singh, Adv.

Mr. Kumar Kartikay, Adv.

Mr. Aruneshwar Gupta, Adv.

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

The appeals are dismissed in terms of the signed
order.

[VINOD LAKHINA]
COURT MASTER

[ASHA SONI]
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1801 OF 2008

STATE OF RAJASTHAN . . . APPELLANT

VERSUS

BHINYA RAM & ORS. . . RESPONDENTS

WITH
CRIMINAL APPEAL NO. 1799 OF 2008

STATE OF RAJASTHAN . . . APPELLANT

VERSUS

BHAGWAN RAM & ORS. . . RESPONDENTS

WITH
CRIMINAL APPEAL NO. 1800 OF 2008

STATE OF RAJASTHAN . . . APPELLANT

VERSUS

SURJA RAM & ORS. . . RESPONDENTS

ORDER

1. These three appeals have been filed by the State of Rajasthan aggrieved by a common order of the High Court of Rajasthan. The appellants

before the High Court (respondents herein) were persons who had challenged their conviction under Section 325 of the Indian Penal Code, 1860 (hereinafter referred to as "the IPC") (four accused) and under Section 302 IPC (nine accused). Out of four accused of the first group one accused has died during the pendency of the matter whereas two accused persons of the second group have also died. The High Court refused to go into the merits of the appeals filed by the accused persons convicted under Section 325 IPC on the ground that they have already undergone the period of sentence. Insofar as the accused convicted under Section 302 IPC is concerned, the High Court thought it proper to alter the conviction to one under Section 304 Part I of the IPC and sentenced the accused for the period already undergone which varies between over two years in some cases; over three years in others whereas in case of two of the accused the period undergone is 10 years and above. Aggrieved by the aforesaid order of the

High Court, the State of Rajasthan is in appeal before us.

2. We have heard the learned counsels for the parties.

3. Insofar as the conviction and sentence under Section 325 IPC is concerned (three surviving accused), as the High Court had refused to go into the merits of the appeal filed by the aforesaid accused persons against their conviction, the grievance, if any, should have been of the aforesaid accused and not of the State, particularly, when the State had not challenged before the High Court the conviction of the said accused recorded under Section 325 IPC instead of Section 302 IPC.

4. Coming to the second group of accused who have been convicted under Section 302 IPC, though

arguments have been raised on behalf of the State that the High Court did not consider the evidence of the eye-witnesses in detail and material parts of the prosecution case have been ignored, we find from a consideration of the order of the High Court that the conclusions reached are not devoid of reasons. The High Court has taken the view that the four eye-witnesses examined by the prosecution had implicated innocent persons including persons not named in the First Information Report. In such a situation, the High Court entertained a doubt to the extent to which the said eye-witnesses could be relied upon. That apart, the High Court also took into account the fact that the incident arose out of a fight that had occurred between two groups and that there was a unruly mob and in such circumstances it was not possible as to who had inflicted the fatal injuries of particular significance would be the long period that had elapsed in the meantime i.e. 27 years which was taken note of by the High Court

which period, presently, is nearly 35 years. Taking into account the aforesaid facts and circumstances, the High Court thought it proper to alter the conviction of the remaining/surviving seven accused from Section 302 to Section 304 Part I of the IPC and the sentence imposed to the period already undergone. The High Court also imposed a fine of Rs.75,000/- on each of the accused out of which a sum of Rs.6 lakhs was directed to be paid to the paid to the family of the victims.

5. On an overall consideration of the facts of the case; the long period of time that has elapsed since the date of occurrence and the reasoning of the High Court on merits, we are of the opinion that the same should not call for any interference. We, therefore, are not inclined to pass any order contrary to what has been decided by the High Court in the order under challenge.

6. For the aforesaid reasons, all the appeals are held to be without any merit and are accordingly dismissed and the order of the High Court is affirmed.

.....,J.
(RANJAN GOGOI)

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

NEW DELHI
AUGUST 13, 2015