

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).1337 OF 2011

2607818F SEPOY SHAIKH RAFFEE Appellant(s)

VERSUS

THE CHIEF OF THE ARMY STAFF & ORS. Respondent(s)

O R D E R

Sepoy Shaikh Raffee, the appellant, who was serving with 38 Rashtriya Rifles Battalion (Madras) and attached to 43 Rashtriya Rifles Battalion (Rajputana Rifles) was accused of an offence punishable under section 69, 52(a) and 63 of the Army Act. In the Summary Court martial held against him, he was found guilty of the offences for which he was charged and sentenced to suffer rigorous imprisonment for 120 days in civil jail. He was also dismissed from service.

The allegation against the appellant is that he assisted Naik Ravi Kumar Pola, who shot and killed his Company Commander Major Harsh, by firing four rounds of ammunition.

The order passed by the Summary Court martial was affirmed by the Chief of Army Staff who dismissed the petition filed by the appellant. The Armed Forces Tribunal, Principal Bench, New Delhi dismissed the O.A.No.40 of 2009 filed by the appellant.

Learned counsel for the appellant submitted that he did not plead guilty as alleged by the respondents. He was forced/coerced to plead guilty which cannot be held against him. He also submitted that the evidence on record does not suggest any complicity on his behalf in the murder of Major Harsh. He further pleaded that appellant has undergone the imprisonment and the order of dismissal from service is harsh and disproportionate.

Ms. Madhavi Divan, learned Additional Solicitor General took us through the evidence to submit that apart from the appellant pleading guilty, there is sufficient evidence on record which supports the order passed by the Summary Court martial. She further submitted that the order passed by the Summary Court martial was affirmed by the Chief of Army Staff and the Armed Forces Tribunal.

We have heard the learned counsel for the parties and after going through the material on record carefully, we are of the opinion that there is no error in appreciation of the evidence by the

Armed Forces Tribunal and the order of the Armed Forces Tribunal does not warrant any interference.

The appeal is accordingly dismissed. Pending application(s), if any, stand disposed of.

.....J.
(L. NAGESWARA RAO)

.....J.
(HEMANT GUPTA)

NEW DELHI;
21st August, 2019

ITEM NO.102

COURT NO.10

SECTION II-C

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).1337/2011

2607818F SEPOY SHAIKH RAFFEE

Appellant(s)

VERSUS

THE CHIEF OF THE ARMY STAFF & ORS.

Respondent(s)

Date : 21-08-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE HEMANT GUPTAFor Appellant(s) Mr. Satyajit A.Desai,Adv.
Ms. Anagha S. Desai, AOR
Mr. Vasu Khera,Adv.For Respondent(s) Ms. Madhavi Divan,ASG
Ms. Rana Mukherjee,Sr. Adv.
Mr. Sachin Sharma,Adv.
Ms. Swarupama Chaturvedi,Adv.
Mr. Mukesh Kumar Maroria, AORUPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order. Pending application(s), if any, stand disposed of.

(B.Parvathi)
Court Master(Sunil Kumar Rajvanshi)
Court Master

(Signed order is placed on the file)