

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). 474 OF 2004

STATE OF U.P.

Appellant (s)

VERSUS

VIJAY BAHADUR SINGH & ANR.

Respondent(s)

(With appln(s) for exemption from filing O.T.)

Date: 01/02/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Appellant(s)

Mr. R.K. Gupta, Adv.
Mr. Rajiv Dubey, Adv.
Mr. Kamlendra Mishra, Adv.

For Respondent(s)

Mr. K.K. Gupta, Adv.(N.P.)

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

We request the High Court to dispose of the appeal expeditiously as possible preferably within six months from today.

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The sentence awarded by the Trial Court shall be under suspension and the respondents shall be released on bail to the satisfaction of the Trial Court during the pendency of Criminal Appeal No. 64 of 1992 on the file of High Court of Judicature at Allahabad, Lucknow Bench, Lucknow.

The appeal is accordingly allowed in terms of the signed order.

(DEEPAK MANSUKHANI)
Court Master
(The signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 474 OF 2004

(RENUKA SADANA)
Court Master

STATE OF UTTAR PRADESH

Appellant (s)

VERSUS

VIJAY BAHADUR SINGH & ANR.

Respondent(s)

O R D E R

The respondents in this Criminal Appeal were tried for the offences punishable under Section 498A, 304B and 302 IPC. The Trial Court acquitted the respondents of the charge under Section 302 IPC but convicted both of them for the offences punishable under Sections 498A and 304B IPC. The Trial Court sentenced the respondents for the offences punishable under Section 304B IPC to suffer rigorous imprisonment for a period of seven years. No separate sentence has been awarded under Section 498A IPC. The respondents preferred an appeal challenging their conviction and sentence awarded by the Trial Court.

The High Court dismissed the appeal and accordingly upheld the conviction of the respondents for the offence punishable under Section 498A IPC and awarded the sentence to that of already undergone and to pay a fine of Rs. 5000/- each, in default of payment of fine, to further undergo rigorous imprisonment for a period of six months each. The High Court also found the respondents to be guilty for the offence punishable under Section 304B IPC but reduced the sentence to the period already undergone and to pay a fine of

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Rs. 10000/- each and in default of payment of fine to further undergo rigorous imprisonment for a period of one year each.

The Judgment of the Appellate Court is absolutely unsatisfactory and bereft of any particulars. It is no doubt

recorded in the Judgment that the Counsel for the appellents did not press the appeal on merits and confined his submissions only on the question of sentence.

Be it noted, that the Trial Court awarded a minimum sentence of 7 years and, therefore, there is no question of the Appellate Court reducing the sentence awarded by the Trial Court. I t is

difficult to discern as to whether any such statement at all could have been made by the Counsel for the appellant.

In the circumstances, we find it very difficult to sustain the impugned judgment reducing the sentence to that of already undergone for the offence punishable under Section 304B IPC. Once the respondents are found guilty of the offence punishable under Section 304B IPC, there is no alternative for the Court but to award sentence of at least a minimum of 7 years and/or fine. There is no discretion vest with the High Court to reduce and award any sentence less than that of 7 years imprisonment.

For the aforesaid reasons, we are of the opinion that interest of justice would be met by remitting the matter for fresh consideration and hearing of the appeal on merits including on the question as to the conviction of the respondents for the charged

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offences. The appeal shall be heard on merits in accordance with law.

We request the High Court to dispose of the appeal as expeditiously as possible preferably within six months from today.

The sentence awarded by the Trial Court shall be under suspension and the respondents shall be released on bail to the satisfaction of the Trial Court during the pendency of Criminal Appeal No. 64 of 1992 on the file of High Court of Judicature at Allahabad, Lucknow Bench, Lucknow.

The appeal is accordingly allowed.

.....J.
(B. Sudershan Reddy)

.....J.
(Surinder Singh Nijjar)

NEW DELHI
FEBRUARY 01, 2011