

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1353 OF 2008

KETAN V. PAREKH

APPELLANT(S)

VERSUS

CENTRAL BUREAU OF INVESTIGATION

RESPONDENT(S)

WITH

CRIMINAL APPEAL NO. 1349 OF 2008

CRIMINAL APPEAL NO. 1200 OF 2008

CRIMINAL APPEAL NO. 1201 OF 2008

CRIMINAL APPEAL NO. 1250 OF 2008

CRIMINAL APPEAL NO. 1352 OF 2008

CRIMINAL APPEAL NO. 1131 OF 2008

CRIMINAL APPEAL NO. 1585 OF 2008

O R D E R

CRIMINAL APPEAL NOS. 1353, 1349, 1200, 1201, 1352, 1131 OF 2008 and
1585 OF 2008

It is not in dispute that the subject matter of the appeals has already been disposed of qua the similarly placed accused persons in Criminal Appeal No. 2441 of 2010 dated 16.08.2023 and Criminal Appeal No. 117/2017 and connected matters dated 01.11.2023 by the following order(s):

"CRIMINAL APPEAL No. 2441 of 2010

The appellant has been convicted by the Special Court (Trial of Offences relating to Transactions in Securities) Act at Bombay for

the offence punishable under Section 120-B, 467 read with Section 471 IPC and under Sections 13(1)(a) and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act.

Though arguments have been made by the counsel for the appellant on merit, we do not find any reason to consider the same, particularly, by taking into consideration the statement made at the Bar that the appellant has already undergone more than two months of imprisonment and he is also stated to be aged about 71 years. The alleged occurrence had happened in the year 1991-1992 while he was functioning as a public servant.

Thus, considering the facts and circumstances of the case, we are inclined to modify the sentence to one of the period already undergone while confirming the conviction.

The appeal stands disposed of accordingly.

Pending application(s), if any, also stand disposed of.

CRIMINAL APPEAL NOS. 117, 139, 138, 136, 140, 137 of 2017

1. Heard the learned counsel appearing for the parties.

2. In all these cases, the appellants have been arrayed as accused for the offence punishable under Sections 120-B, 409 r/w Section 109, 403, 411, 420, 467, 471, 477A of the Indian Penal Code, 1860 (for short, 'IPC') and under Sections 13(1)(c) & 13(1)(d) r/w Section 13(2) of the Prevention of Corruption Act, 1988 (for short, 'the PC Act').

3. The Trial Court in Special Case No. 2 of 1994 rendered conviction against the appellants. The Special Case no. 2 of 1994 and Special Case No. 4 of 1994 emanate from common FIR in R.C. 52/A/92. In both these cases, the main accused died several years ago.

4. Cases have been registered touching upon a series of events involving the main accused. Separate cases have been registered, and even amongst those cases they have been divided into separate trials. In one amongst such cases filed by *Ram Narayan Popli vs. Central Bureau of Investigation*; (2003) 3 SCC 641, the three Judges Bench of this Court while confirming the conviction by a ratio of 2:1 passed the following order:

"385. In the result it is held that:
(1) Criminal Appeal No. 521 of 2000 filed by the State against A-2 Ambuj Sushil Kumar Jain is dismissed.

(2) Criminal Appeal No. 1097 of 1999 filed by A-4 Ram Narayan Popli is allowed and he is acquitted of all the offences alleged against him.

(3) Further, in view of the judgment rendered by the majority, Criminal Appeals Nos. 1117 of 1999, 1141 of 1999 and 1150 of 1999 filed by A-1 Pramod Kumar Pritam Lal Manocha, A-3 Vinayak Narayan Deosthali and the deceased A-5 Harshad Shantilal Mehta respectively are partly allowed. The order of conviction awarded by the Special Court in respect of A-1, A-3 and A-5 is confirmed. However, sentence of A-1 and A-3 is reduced to the period already undergone.

386. Ordered accordingly."

5. Thereafter, a Division Bench of this Court in *Vinayak Narayan Deosthali vs. Central Bureau of Investigation*, (2015) 2 SCC 553, once again confirmed the order of conviction but reduced the sentence of imprisonment to the period undergone.

6. The aforesaid two decisions have been followed by a series of other orders by this Court by modifying the sentence to the period already undergone as could be seen in Criminal Appeal No. 796 of 2005 and Criminal Appeal No. 797 of 2005 vide order dated 04.03.2016 and others. We do not wish to multiply the subsequent orders passed by this Court.

7. Though the learned senior counsel appearing for the respondent placed reliance upon the decision rendered by this Court in (2015) 4 SCC 353 and 2009 (11) SCC 737, we are of the view that the aforesaid two decisions merely confirmed the conviction. In other words, the question of reduction of sentence was not the subject matter in those set of cases. On the contrary, as already pointed out by the counsel appearing for the appellants as against the reduced sentence imposed, the Criminal Appeal No. 338 of 2008 filed by the Central Bureau of Investigation has been

dismissed on 04.03.2016.

8. In view of the aforesaid factual position, we are inclined to agree with the submissions made by the learned senior counsel Mr. Jayant Mehta that at the relevant point of time - when the offence was committed attracting the provisions of the PC Act, there was no minimum sentence imposed under the statute. Perhaps, that is the reason why the orders have been passed by this Court, as noted above. We are also constrained to take note of the fact that the occurrence took place in the year 1992, and now more than three decades have passed. Most of the appellants were middle aged persons at the relevant point of time and now they are at an advanced stage of their life.

9. In such view of the matter, we are not inclined to take a different view than the one taken previously by this Court from time to time, pertaining to the same series of events. Accordingly, while confirming the conviction rendered, we would like to modify the sentence to the effect that the appellants shall appear before the Trial Court on 29th November, 2023 and undergo the sentence of one day by being under the custody of the Court from 10.30 am till the rising of the Court. Insofar as the fine imposed is concerned, the same shall stand confirmed. The statement of the learned counsel appearing for the appellants, that the fines have been deposited is recorded and therefore, they shall stand forfeited.

10. It is further clarified that our order will not stand in the way of the Trial Court in the matters which are pending trial as being confined to the facts of the case.

11. Accordingly, appeals stand allowed in part.

12. Pending application(s), if any, stand disposed of.

Criminal Appeal No. 248 of 2014

13. The appellant stood charged and convicted for the offence punishable under Section 420, IPC while acquitted of the charges punishable under Sections 411, 465, 467, 468, 471 and 120-B of the IPC. Accordingly, he was sentenced to undergo five years rigorous imprisonment and to pay fine of Rs. 10 Lakhs. The appellant was also

directed to pay compensation of Rs. 40.40 crore to the State under Section 357(3) of the Cr.P.C. Challenging the said conviction and sentence, the present appeal is before us.

14. As rightly submitted by learned counsel appearing for the appellant that the issue involved has already been dealt by us in Criminal Appeal Nos. 117, 139, 138, 136, 140, 137 of 2017 wherein after taking note of the decision rendered by this Court in *Ram Narayan Popli vs. Central Bureau of Investigation*; (2003) 3 SCC 641, the sentence imposed was modified while confirming the conviction to undergo one day sentence till the rising of the Court. Learned counsel appearing for the appellant submits that the appellant stands at a different footing inasmuch as he has already undergone 58 days incarceration and therefore, he stands at the same footing as that of appellants in the case of *Ram Narayan Popli* (supra). It is submitted that insofar as the conviction is concerned, an affidavit has been filed to the effect that the same may be confirmed provided that the appellant is given the relief of modifying the sentence to the one undergone already. Incidentally, he submitted that appellant is a heart patient and aged about 63 years. Learned counsel also made an endeavour to convince the Court on the question of compensation imposed by the Trial Court.

15. Learned counsel appearing for the respondent(s) submitted that the compensation has been given by the Court by taking into consideration the facts averred therein. The finding of the Trial Court is to the effect that a sum of Rs. 10,69,00,000/- (Rupees Ten crores sixty nine lakhs) has been misappropriated by the appellant. That is the reason why interest component @ 18% for the period of twenty one years has been added.

16. We are concerned with two issues before us. One is with respect to the sentence required to be modified and the other is compensation. While we are willing to consider the case of appellant insofar as the sentence is concerned, we do not find any reason to interfere with the judgment of the Trial Court on the imposition of the compensation. The liability fastened on the appellant, as recorded by the Trial Court,

has not been satisfactorily and effectively challenged before us. On the contrary, the appellant has filed an affidavit stating that he will go along with the conviction. Since we find that the Trial Court was correct in arriving at its conclusion, we do not find any reason to modify or set aside the compensation imposed. However, we find force in the submission made with respect to the appropriate sentence to be imposed. In *Ram Narayan Popli* (supra), the larger Bench of this Court was pleased to modify the sentence to the one undergone already. Apart from being heart patient and suffering from diabetes, the appellant is 63 years old. Furthermore, we are dealing with a case which is more than three decades old. Furthermore, similarly placed persons got the sentence modified either for period undergone or a period of one day before the Court till its rising. In such view of the matter, taking into consideration the period of incarceration undergone, we are inclined to modify the sentence to the one undergone already while confirming the conviction and the compensation imposed.

17. Accordingly, the appeal is allowed in part.

18. Pending application(s), if any, stand disposed of."

Accordingly, we are inclined to dispose of all these appeals in terms of the above referred orders.

Consequently, appeals stand disposed of.

However, we make it clear that in such of those cases where the appellants have already undergone incarceration, the sentence shall modify to the period undergone already and as regards to other cases, where the appellants have not undergone any period of incarceration, the sentence imposed against them stands modified to the effect that the appellants shall appear before the Trial Court

on 13th September, 2024 at 10.30 A.M. and undergo the sentence of one day by being under the custody of the Court from 10.30 am till the rising of the Court.

We make it clear that the fine imposed by the impugned order shall remain in place.

Criminal Appeal NO. 1250 of 2008

Learned counsel appearing for the appellant submitted that the appellant has passed away.

In view of the submission made, the appeal stands dismissed as abated.

.....J.
(M.M. SUNDRESH)

.....J.
(ARAVIND KUMAR)

NEW DELHI;
AUGUST 29, 2024.

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. 1353/2008

KETAN V. PAREKH

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VERSUS

CENTRAL BUREAU OF INVESTIGATION

Respondent(s)

WITH

Crl.A. No. 1349/2008 (II-A)

Crl.A. No. 1200/2008 (II-A)

Crl.A. No. 1201/2008 (II-A)

Crl.A. No. 1250/2008 (II-A)

Crl.A. No. 1352/2008 (II-A)

Crl.A. No. 1131/2008 (II-A)

Crl.A. No. 1585/2008 (II-A)

Date : 29-08-2024 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s)

Ms. Kamini Jaiswal, AOR
Ms. Rani Mishra, Adv.

Mr. Sanjiv Sen, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Ankur Saigal, Adv.
Mr. Shubham Kulshrestha, Adv.
Mr. Kaustubh Singh, Adv.
Mr. E. C. Agrawala, AOR

Mr. Tanmaya Agarwal, AOR
Mr. Wrick Chatterjee, Adv.
Mrs. Aditi Agarwal, Adv.
Mr. Neel Kamal Mishra, Adv.
Mr. Vinayak Mohan, Adv.

M/S. K J John And Co, AOR

Mr. Siddhesh Shirish Kotwal, Adv.
Ms. Ana Upadhyay, Adv.
Ms. Manya Hasija, Adv.
Mr. Tejasvi Gupta, Adv.
Mr. Pawan Upadhyay, Adv.
Mr. T. Illayarasu, Adv.
Mrs. V. D. Khanna, AOR

Mr. Rajiv Dutta, Sr. Adv.
Mr. Gopal Singh, AOR
Mr. Manish Kumar, Adv.
Mr. Shivam Singh, Adv.
Ms. Neha Singh, Adv.
Ms. Bahuli Sharma, Adv.
Mr. Ishwar Singh, Adv.
Ms. Shaswati Parhi, Adv.
Mr. Suyash Vyas, Adv.
Mr. Divyansh Mishra, Adv.
Mr. Shubham Janghu, Adv.
Mr. Rajiv Singh, Adv.
Mr. Yoshit Jain, Adv.

For Respondent(s) Mr. Arvind Kumar Sharma, AOR

Mr. K M Nataraj, A.S.G.
Ms. Sonia Mathur, Sr. Adv.
Mr. Mukesh Kumar Maroria, AOR
Mr. Sharath Nambiar, Adv.
Ms. Saudamini Sharma, Adv.
Mr. Rajan Kumar Chourasia, Adv.

Mr. E. C. Agrawala, AOR

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

CRIMINAL APPEAL NOS. 1353, 1349, 1200, 1201, 1352, 1131 OF 2008 and 1585 OF 2008

The appeals are disposed of in terms of signed order.
Pending application(s), if any, shall stand disposed of.

Criminal Appeal NO. 1250 of 2008

The appeal stands dismissed as abated in terms of signed order.

(RAJNI MUKHI)
COURT MASTER (SH)

(POONAM VAID)
COURT MASTER (NSH)

(Signed order is placed on the file)