

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 717 OF 2011

MUNNA GUPTA

.....Appellant(s)

Vs.

THE STATE OF CHHATTISGARH

.....Respondent(s)

O R D E R

Being aggrieved by the judgment and sentence ordered by the High Court of Chhattisgarh, Bilaspur in Criminal Appeal No. 565 of 2006, the appellant has preferred this appeal.

We have heard Ms. A. Sumathi, learned counsel for the appellant and Mr. Abhishek Pandey, learned counsel for the respondent - State.

During the course of submission, it was brought to our notice by learned counsel for the respondent - State that in fact the appeal preferred by the appellant before the High Court was only with regard to the quantum of sentence and that the appellant has accepted the conviction. He further submitted that the High Court has granted relief to the appellant by setting aside seven years R.I. imposed under Section 397 of the IPC and while confirming the sentence under Section 395 of the IPC to undergo R.I. of ten years and to pay fine of Rs.300/- and in default of payment of fine to further undergo R.I. for three months. Learned counsel for the

respondent, therefore, submitted that there is no merit in this appeal and the same may be dismissed. To this initial submission made by learned counsel for the respondent - State, learned counsel for the appellant drew our attention to the order dated 02.08.2010 passed by this Court, while issuing notice in the case wherein it was observed that even though the appeal was filed on the question of sentence only before the High Court there is need to examine the case on merits. Therefore, she submitted that the matter requires to be considered on merits and the appellant is entitled to an acquittal in the instant case.

It was also brought to our notice that by order dated 14.03.2021 the appellant was granted the relief of bail as he had completed seven years out of ten years rigorous imprisonment and that presently he is on bail.

In the circumstances, learned counsel for the appellant submitted on the merits also and contended that the appellant is entitled to an order of acquittal.

On hearing learned counsel for the respective parties, we do not find that the judgment of the High Court affirming the judgment of the trial Court reserving Section 395 of the IPC and awarding the sentence can be found fault with. We do not find any merit in the arguments of learned counsel for the appellant regarding the appellant being acquitted.

However, we find substance in the arguments of learned counsel for the appellant with regard to the reduction in sentence which was an alternative argument made by her. She drew our attention to Section 395 of the IPC which prescribes "the

punishment for dacoity" which offence is defined in Section 391 thereof. She submitted that although the punishment of imprisonment from life is also prescribed, the trial Court as well as the High Court have given the alternative punishment, namely, rigorous imprisonment for a term which may extend to ten years and payment of fine of Rs.300/- only. She submitted that out of the term of ten years, the appellant has already completed seven years and since 70 per cent of the sentence was undergone by the appellant, this Court found it fit to release the appellant on bail vide order dated 14.03.2011. She submitted that since then the appellant has been out of jail and there has been no other criminal antecedents viz-a-viz the appellant even prior to the instant case and subsequently the appellant has not been charged with any other offence and he has been leading a normal peaceful life, in the circumstances, this Court may consider reduction of the sentence to what has already been undergone and modify the judgment and sentence imposed by the High Court as well as the trial Court and consequently to reduce the sentence to only the sentence which has already been undergone by the appellant herein.

Learned counsel for the respondent, however, objected to the sentence being reduced and he contended that no doubt this Court has exercised discretion and granted bail but the impugned judgment and sentence would not call for any modification. He sought for dismissal of the appeal.

We have considered rival submissions advanced at the Bar and also taken note of the facts and circumstances of this case. We note that while the High Court has affirmed the conviction

granted by the Sessions Court nevertheless has granted relief to the appellant herein by setting aside the sentence imposed under Section 397 of the IPC. No doubt on a reading of the impugned judgment of the High Court it is evident that the appellant had also appealed to the High Court only with regard to the reduction in the sentence awarded to him but he was unsuccessful in so far as seeking a reduction in sentence under Section 395 of the IPC is concerned. Therefore, for this reason also we do not think that the appeal would call for consideration on the merits so as to consider as to whether he is entitled to an acquittal as such. But we are mindful of the fact that the appellant has undergone 70 per cent of the sentence and this Court by order dated 14.03.2011 found the appellant being entitled to be released on bail. Bearing in mind the fact that subsequently the appellant has not been charged with any other offence and that long period of time that has lapsed since the grant of bail, we find in the fact and circumstances of this case that the appellant is entitled to the benefit of reduction of sentence from ten years of R.I. to the period already undergone and i.e. to the day he was released on bail. This is having regard to the Section 395 of the IPC which prescribes different forms of sentences and both the Sessions Court as well as the High Court had only chosen to impose the sentence of R.I. for a term of ten years whereas the sentence could extend up to a period of ten years and there is no prescription of a minimum sentence. In the result the impugned judgment and order of the High Court as well as the judgment and sentence of the Sessions Court are modified and the sentence imposed is reduced to the

period already undergone.

The appeal is allowed in part in the aforesaid terms.

At this stage, learned counsel for the appellant Ms. A. Sumathi submitted that this is a legal aid matter and, therefore, we place on record our appreciation of assistance to this Court.

We also appreciate the fact that learned counsel for the respondent - State has submitted custody certificate dated 28.5.2024 to indicate that the appellant herein had undergone seven years of sentence.

In case the fine of Rs.300/- has not been paid then the Supreme Court Legal Service Committee shall take steps to assist the appellant to pay the requisite fine.

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

.....J.  
(B.V. NAGARATHNA)

.....J.  
(SATISH CHANDRA SHARMA)

New Delhi;  
May 29, 2024.

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). 717/2011

MUNNA GUPTA

Appellant(s)

VERSUS

THE STATE OF CHHATTISGARH

Respondent(s)

Date : 29-05-2024 This appeal was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Appellant(s) Ms. A. Sumathi, AOR

For Respondent(s) Mr. Abhishek Pandey, Standing Counsel, Adv.  
Mr. Prashant Kumar Umrao, AOR

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

The appeal is allowed in part in terms of signed order.

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

(NEETA SAPRA)

COURT MASTER (SH)

(Signed order is placed on the file)

(MALEKAR NAGARAJ)

COURT MASTER (NSH)