

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 2271 OF 2009

GAURI SHANKAR

APPELLANT(S)

VERSUS

STATE OF M.P.

RESPONDENT(S)

O R D E R

This Appeal arises from a judgment and order of the High Court of Judicature at Madhya Pradesh, Bench at Jabalpur whereby Criminal Appeal No. 401 of 1996 filed by the appellant against his conviction and sentence of 10 years rigorous imprisonment has been dismissed.

2. We have heard learned counsel for the parties at some length.

3. The prosecution version in a nutshell is that the appellant on 08.08.1994 picked up P.W.-1 Bhaddo Bai alias Subhadra then aged about six years, carried her to the house of one Prakash Bai P.W.-4 and made an attempt to offer her as a human sacrifice to the Goddess, but was prevented from doing so by the timely intervention of the mother of the child. Both the courts below have believed the version of P.W.-1 the victim of the assault and P.W. - 2 her mother as also P.W.-4 Prakash Bai, who were examined at the trial.

4. The deposition of P.W.-1 Bhaddo Bai alias Subhadra, in particular, inspires confidence as there is no allegation or even a suggestion of any tutoring of the witness to falsely implicate the appellant herein. The fact that the appellant was a neighbour of the parents of the victim and the victim knew him also removes any possibility of any mistaken identity. The entire version as emerging from the deposition of the witnesses appears to have been rightly believed by the courts below. There is, in that view, no reason for us to interfere with the finding of guilt recorded by the courts below against the appellant especially when we find no perversity in the conclusion arrived at by them.

5. Having said that, we are of the view that the appellant, who is reported to be about 70 years old at present, can be given a reduced sentence. From the records, it appears that the appellant has already undergone nearly 4 years imprisonment and has been on bail for almost 16 years during the pendency of different stages of the proceedings against him.

6. In that view and especially having regard to the fact that the child had escaped unhurt, we are inclined to reduce the sentence awarded to the appellant to the period already undergone by him.

7. We, accordingly, allow this Appeal but only in part and to the extent that, while the conviction of the appellant under Sections 364 and 307 of I.P.C. shall stand affirmed, the sentence awarded to the appellant shall stand reduced to the period already undergone by him.

8. The appellant is on bail. His bail bonds shall stand discharged.

.....J.
(T.S. THAKUR)

.....J.
(ADARSH KUMAR GOEL)

NEW DELHI;
DECEMBER 11, 2014

.....J.
(R. BANUMATHI)

ITEM NO.104

COURT NO.2

SECTION IIA

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). 2271/2009

GAURI SHANKAR

Appellant(s)

VERSUS

STATE OF M.P.

Respondent(s)

(with office report)

Date : 11/12/2014 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s) Mr. Sunil Singh Parihar, Adv. for
Mr. S. K. Sabharwal, Adv.

For Respondent(s) Mr. Naveen Sharma, Adv. for
Mr. Mishra Saurabh, Adv.
Ms. Vibha Datta Makhija, Adv.

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

In terms of the signed order:-

"7. We, accordingly, allow this Appeal but only in part and to the extent that, while the conviction of the appellant under Sections 364 and 307 of I.P.C. shall stand affirmed, the sentence awarded to the appellant shall stand reduced to the period already undergone by him.

8. The appellant is on bail. His bail bonds shall stand discharged."

(RAJESH DHAM)
COURT MASTER

(VEENA KHERA)
COURT MASTER

(signed order is placed on the file)