

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 649/2020

JAYANTI BAI

APPELLANT(s)

VERSUS

STATE OF MADHYA PRADESH
(NOW CHHATTISGARH)

RESPONDENT(s)

J U D G M E N T

This appeal assails the judgment of the Division Bench of the High Court of Chhattisgarh in Criminal Appeal No.1350/1997 dated 29.10.2012. By the said judgment, the High Court dismissed the Criminal Appeal filed by the appellant herein. Thereby, the judgment of conviction and order of sentence dated 02.07.1997 passed by the 5th Additional Sessions Judge, Durg in Sessions Case No.160/1996 holding the appellant guilty for causing homicidal death amounting to murder of the newly born child was convicted under Section 302 of the Indian Penal Code (for short "IPC") and sentenced to undergo imprisonment for life and fine of Rs.1000/- and in default of payment of fine to further undergo simple imprisonment for six months was affirmed.

2. Being aggrieved by the judgment of the High Court, the appellant has preferred this appeal.

3. We have heard learned counsel, Ms. Sangeeta Kumar appearing for the appellant who has filed this appeal through the Supreme Court Legal Services Committee and learned standing counsel for respondent-State. We have perused the material on record.

4. Learned counsel appearing for the appellant, apart from pointing out various contradictions in the evidence of the witnesses submitted that the Trial Court as well as the High Court could not have passed the judgment of conviction against the appellant herein.

5. Learned counsel next submitted that the offence of Section 302 IPC was alleged against the appellant herein that the material on record including the testimonies of various witnesses would reveal that the offence under Section 302 IPC could not have been alleged against the appellant herein. In this regard, learned counsel for the appellant drew our attention to the deposition and testimonies as well as the relevant medical evidence which were placed on record including the Autopsy Report (Ex.P/12) and depositions of Dr. Alpana Agrawal (PW-4) and Dr. Anil Agrawal (PW-5). Learned counsel for the appellant contended that while the Trial Court may have convicted the appellant for the offence said to have been committed under Section 302 of the IPC, the High Court ought to have considered the said matter in a more detailed manner by re-appreciating the evidence. In this regard, learned counsel for the appellant drew our attention to the judgment of the High Court and contended that there is really no discussion of the evidence on record and the reference to the testimonies and the material on record is very cryptic. There is no discussion regarding the cause of death of the child and linking the same to the appellant herein. That the High Court was considering a First Appeal against the conviction for an offence under

Section 302 of the IPC, the High Court could have bestowed greater attention to the case of the appellant herein by referring to the loopholes in the testimonies of the various witnesses as well as the other documents on record in a greater detail and by independent reasoning could have arrived at a conclusion one way or the other.

6. Learned counsel for the appellant, therefore, submitted that either this Court may consider the matter on merits and conclude that no offence whatsoever could have alleged against the appellant herein and consequently, the appellant could not have been convicted for the offence under Section 302 of the IPC or, alternatively, the matter may be remanded to the High Court for a reconsideration of the appeal.

7. Per contra, learned standing counsel for respondent-State contended that there is absolutely no merit in this appeal; that the appellant has been in jail only for a period of nine years and two months, she was on bail during the pendency of the trial and only thereafter on conviction she was taken into custody; that this Court has also granted the relief of bail since the year 2020 and therefore, there being no merit in this appeal, the appeal may be simply dismissed.

8. We have given our anxious consideration to the submissions advanced at the Bar and we have perused the judgment impugned as well as the judgment of the Sessions Court in light of the evidence on record.

9. We find that the appellant herein who is stated to be presently sixty five years of age had assailed the conviction

and sentence imposed against her under Section 302 IPC. In the circumstances, we find that the High Court ought to have considered the case of the appellant in a more detailed manner having regard to the oral testimonies as well as the evidence on record and bearing in mind the manner in which the death of the child had occurred.

10. In the circumstances, we find that the ends of justice would be met in this case if the impugned judgment dated 29.10.2012 is set aside and the matter is remanded to the High Court for reconsideration of Criminal Appeal No.1350/1997. Consequently, the impugned judgment is set aside. Criminal Appeal No.1350/1997 is restored on the file of the High Court.

11. It is noted that this Court while granting leave passed order dated 01.10.2020 and has granted the relief of bail and has ordered release of the appellant on bail subject to the satisfaction of the Trial Court. We find that having regard to the circumstances of this case and bearing in mind the fact that we are remanding the matter to the High Court for a reconsideration of the appeal and also bearing in mind the age of the appellant who is stated to be sixty five years of age, pending consideration of the appeal by the High Court, there shall be suspension of sentence. The High Court may nevertheless impose any other condition on the appellant.

12. It is needless to observe that the High Court shall consider the appeal filed by the appellant herein in accordance with law.

13. This appeal is allowed and disposed of in the aforesaid terms.

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

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

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

NEW DELHI;
FEBRUARY 06, 2025

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 SCRIMINAL APPEAL NO(S). 649/2020

JAYANTI BAI

Appellant(s)

VERSUS

STATE OF MADHYA PRADESH
(NOW CHHATTISGARH)

Respondent(s)

(IA No. 59189/2020 - EXEMPTION FROM FILING O.T.)

Date : 06-02-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMAFor Appellant(s) Ms. Sangeeta Kumar, AOR
Mrs. Vithika Garg, Adv.
Ms. Vidushi Garg, Adv.
Mr. Hemant Kumar Tripathi, Adv.For Respondent(s) Mr. Prashant Singh, AOR
Mrs. Prerna Dhall, Adv.
Ms. Karishma Rajput, Adv.
Mr. Gopinadh Mr, Adv.
Mr. Shivam Ganeshia, Adv.
Ms. Akansha Singh, Adv.UPON hearing the counsel the Court made the following
O R D E RThis appeal is allowed and disposed of in terms of the
signed order.

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

(RADHA SHARMA)
ASTT. REGISTRAR-cum-PS(DIVYA BABBAR)
COURT MASTER (NSH)

(Signed order is placed on the file)