

ITEM NO.31

COURT NO.8

SECTION II-A

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

SPECIAL LEAVE PETITION (CRIMINAL) Diary No.450/2020

(Arising out of impugned final judgment and order dated 18-09-2018 in CRLA No. 1253/2018 passed by the High Court of Judicature at Bombay)

SANTOSH NAMDEO BHUKAN

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(With appln.(s) for c/delay in filing SLP, exemption from filing c/c of the impugned judgment, exemption from filing O.T. and interim relief)

Date : 07-02-2020 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s) Mr. R. Basanth, Sr. Adv.
Mr. Sanjay Kharde, Adv.
Mr. Kailash Autade, Adv.
Mr. Ranjit Kumar Rathod, Adv.
Mr. Sunil Kumar Verma, AOR

For Respondent(s)

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

Delay condoned.

Heard Mr R Basant, learned senior counsel appearing
on behalf of the petitioner.

By a judgment and order dated 12 December 2015, a Division Bench of the High Court of Judicature at Bombay dismissed the Criminal Appeal¹ instituted by the petitioner to challenge his conviction in Sessions Case No 105 of 2011 by the Additional Sessions Judge, Pune. The Additional Sessions Judge, Pune convicted the petitioner of offences under Sections 364, 302 and 201 of the Indian Penal Code. The petitioner was sentenced to suffer rigorous imprisonment for life in respect of the offence under Section 364 and to a similar term of imprisonment in respect of the offence under Section 302. The petitioner was sentenced to rigorous imprisonment for seven years in respect of the offence under Section 201. All sentences were directed to run concurrently.

Against the judgment and order of the High Court dismissing the criminal appeal, the petitioner moved this Court in a petition for special leave to appeal². By an order dated 14 September 2015, the Special Leave Petition was dismissed. After the dismissal of the Special Leave Petition, the petitioner filed a Review Petition which was also dismissed on 7 January 2016. Thereafter, the petitioner filed a Criminal Application³ before the High Court. The contention of the petitioner, which has not been accepted by the High Court in its impugned order dated 18 September 2019 is that, while dismissing the criminal appeal, the High Court had not specifically dealt with the conviction for the offence punishable under Section 364 of the Indian Penal Code. According to the petitioner, if the convictions were to stand in respect of both the offences under Sections 302 and 364, for which he has been sentenced to life imprisonment, he would not be entitled to remission. The High Court has declined to entertain the criminal application. The present

¹Cr1 A No 703 of 2013

²SLP (Cr1) No 7941/2015

³No 1253 of 2018

Special Leave Petition arises from the judgment of the High Court.

The submission of Mr R Basanth, learned senior counsel appearing on behalf of the petitioner is that while dismissing the criminal appeal, the High Court had only dealt with the convictions under Section 201 and 302 of the Indian Penal Code.

We find that no error has been committed by the High Court in declining to entertain the criminal application. The High Court had dismissed the criminal appeal filed by the petitioner against the judgment of conviction by the Trial Court. The petitioner cannot challenge the judgment of the High Court in collateral proceedings by seeking relief which would have the effect of undermining the dismissal of this appeal against the judgment of conviction.

In view of this position and since the High Court has not committed any error, we decline to entertain the Special Leave Petition under Article 136 of the Constitution. However, we leave it open to the petitioner, on the request made before this Court by Mr R Basant, learned senior counsel appearing on behalf of the petitioner to pursue such remedies as may be available in law in respect of the claim for remission.

The Special Leave Petition is accordingly dismissed.

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

(Chetan Kumar)
A.R. -cum-P.S.

(Saroj Kumari Gaur)
Court Master