

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.292 OF 2002

State of Uttar Pradesh

...Appellant(s)

Versus

Amar Gond and Ors.

...Respondent(s)

With

Criminal Appeal No.1289 of 2009
(Arising out of S.L.P. (Crl.) No.1650 of 2003)

O R D E R

Criminal Appeal No.292 of 2002:

Heard learned counsel for the parties.

Amar Gond, Respondent No.1, is stated to have died. The appeal against him stands abated and the same is, accordingly, dismissed.

So far as other accused persons are concerned, in our view, the order of acquittal passed by the High Court against them cannot be said to be perverse in any manner. The appeal against Respondent Nos.2 to 4 fails and the same is, accordingly, dismissed.

Respondent Nos.2 to 4, who are on bail, are discharged from the liability of bail bonds.

Crl.A. No.1289/2009 @ S.L.P. (Crl.) No.1650 of 2003:

Delay condoned.

Leave granted.

Heard learned counsel for the parties.

The appellant was convicted by the Trial Court under Section 302 of the Indian Penal Code, 1860, [hereinafter referred to as "I.P.C."] and sentenced to undergo imprisonment for life. He was further convicted under

...2/-

Sections 307 and 323 I.P.C. and sentenced to undergo imprisonment for a period of seven years and six months respectively. All the sentences, however, were ordered to run concurrently. On appeal being preferred, the High Court converted the conviction from Section 302 I.P.C. to Section 304 Part-II I.P.C. and sentenced the appellant to undergo rigorous imprisonment for a period of three years and to pay fine of Rupees ten thousand; in default, to undergo further imprisonment for a period of six months. So far as convictions under Sections 307 and 323 I.P.C. are concerned, the High Court set aside the same. Hence, this appeal by special leave.

Learned counsel appearing on behalf of the appellant in support of the appeal submitted that the appellant has remained in custody for a period of more than six months and as the occurrence had taken place thirty two years' ago, in the facts and circumstances of the present case, the sentence of imprisonment awarded against him may be reduced to the period already undergone by him. We feel that, in the facts and circumstances of the present case, prayer is reasonable and must be granted.

Accordingly, the appeal is allowed in-part and, while upholding the conviction of the appellant, the sentence of imprisonment awarded against him is reduced to the period already undergone by him.

The appellant, who is on bail, is discharged from the liability of bail bonds.

[B.N. AGRAWAL]

.....J.

[G.S. SINGHVI]

.....J.

[H.L. DATTU]

.....J.

New Delhi,
July 22, 2009.