

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1146 of 2013
WITH
CRIMINAL APPEAL NO.557 of 2014
WITH
CRIMINAL APPEAL No.558 of 2014

Ms.Roshni S. Bafna

.. Appellant

Versus

1) Ramniklal D. Shah

2) Natwarlal D. Shah

.. Respondents

Ms.Roshi S. Bafna, Appellant in person. Advocate for the appellant.

Mr.V.A. Gangal, Sr. Advocate with Mr.Ashok T. Gade for respondent nos.1 and 2.

Mrs.S.V.Gajare, APP for the Respondent State.

CORAM : ABHAY M. THIPSAY, J.

DATED : 5th JANUARY 2015

ORAL JUDGMENT :

1 These three Appeals from the order of Acquittal can be conveniently disposed of by this common order as the parties are the same, and the question that has been raised before me is also the same.

2 Though a number of grounds have been taken in the Appeal, when the Appeals came up for hearing, the appellant who appears in person, submitted that her basic and fundamental grievance is that the judgments of acquittal came to be passed

without hearing the arguments which the appellant intended to advance before the trial court. She submits that the appellant could not remain present before the trial court to make the oral arguments as, on the relevant date, she was required to remain present before his Court in connection with the litigation between the same parties. She submits that she did actually remain present before this Court when the cases in the trial court were kept for her arguments. She therefore, submits that though a number of grounds have been taken in the Appeal, she would be satisfied if the matters are remanded back to the trial court for deciding the same afresh, after giving to her an opportunity of advancing arguments in support of her cases.

3 Mr.Gangal, the learned counsel for the respondent nos.1 and 2 submits that the respondents do not admit the position that on the day on which the appellant was supposed to remain present before the trial court for advancing arguments, she was actually present in this Court. He also submits that the judgments rendered by the learned Magistrate in all these cases are proper, legal, and that the appeals can be decided by this Court after giving to the appellant an opportunity of advancing arguments before this Court. Nevertheless, he submits that if actually the appellant had not been able to advance any arguments before the trial court, then, in view of the prayer made by the appellant, he has no objection if the matters are remanded back to the trial court for deciding the same afresh after giving an opportunity to the appellant of advancing arguments in these cases. The learned counsel, however submits that in such a case, to ensure that the cases are not dragged on unnecessarily, some time

limit be prescribed for the trial court for concluding the arguments, and deciding the cases afresh.

4 In the result, the Appeals are partly allowed.

OPERATIVE ORDER IN CR.APPEAL 1146/13

Appeal is partly allowed.

The impugned order is set aside.

The matter is remanded back to the learned Magistrate for deciding the same afresh, after giving to the appellant an opportunity of advancing oral arguments in support of her case. The appellant shall also be permitted to file a memorandum of written arguments, if she would so desire.

The learned Magistrate shall decide the case afresh, as aforesaid, within a period of one month from the receipt of this order by him.

OPERATIVE ORDER IN CR.APPEAL 557/14

Appeal is partly allowed.

The impugned order is set aside.

The matter is remanded back to the learned Magistrate for deciding the same afresh, after giving to the appellant an opportunity of advancing oral arguments in support of her case. The appellant shall also be permitted to file a memorandum of written arguments, if she would so desire.

The learned Magistrate shall decide the case afresh, as aforesaid, within a period of one month from the receipt of this order by him.

OPERATIVE ORDER IN CR.APPEAL 558/14

Appeal is partly allowed.

The impugned order is set aside.

The matter is remanded back to the learned Magistrate for deciding the same afresh, after giving to the appellant an opportunity of advancing oral arguments in support of her case. The appellant shall also be permitted to file a memorandum of written arguments, if she would so desire.

The learned Magistrate shall decide the case afresh, as aforesaid, within a period of one month from the receipt of this order by him.

Parties shall appear before the learned Magistrate on 19th January 2015.

(ABHAY M.THIPSAY, J)