

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

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WRIT APPEAL No. 342 OF 2015

Date: 16.06.2015

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Between:

Somarouth Siva Rama Krishnaiah & others

... Appellants

And

The State of Andhra Pradesh, rep., by its Principal Secretary,
Hyderabad & others.

... Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

WRIT APPEAL No. 342 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the appellants.

This writ appeal is directed against the order dated 02.04.2015 passed in W.P.No.39392 of 2013. In the writ petition the appellants sought direction to the respondents to release them and set at liberty forthwith by extending benefit of the guidelines issued vide G.O.Ms.No.220, Home (Parole) Department, dated 28.09.2013. Further, they have challenged the acceptance of the recommendations made by Selection Committee, deleting their names from the list of the prisoners, who were set at liberty in view of the G.O.Ms.No.220.

All the appellants are convicts and undergoing life imprisonment in a triple murder case as per the judgment dated 16.06.2006 in S.C.No.337 of 2005. This was a case of brutal murder.

Learned counsel for the petitioners, at the outset, invited our attention to the concerned G.O. and the relevant clause therein. The relevant clause No.5(ii) of G.O.Ms.No.220, dated 28.09.2013, reads thus:

“5. The cases of prisoners who are convicted for life, along with offences under the following provisions of law, subject to not coming under purview of the conditions at para-4 above, shall be considered for grant of remission by the Government after undergoing the periods of sentence as specified:

(i)

(ii) Prisoners who are convicted for life imprisonment in any case with two counts and more shall undergo a minimum actual sentence of 14 years with remand period and total sentence of 20 years with remission.”

On the basis of this G.O. and in particular clause 5(ii) it was vehemently submitted that the appellants were convicted in the case with single count for the offence under Section 302 read with Section 149 of I.P.C. and that the punishment with regard to other offences was lesser punishment and was not life imprisonment. It was further submitted that the crime being one arising out

of single incident and life imprisonment having been imposed on all the appellants, their case would not fall under the category of life imprisonment on more than one count and hence, they are entitled for remission as provided for under G.O.Ms.No.220, dated 28.09.2013. The very same submission was advanced before the learned Single Judge.

We have perused the impugned order and also the charges framed against all the appellants, in particular, the 5th charge. It is not in dispute that all the appellants were convicted for committing murder of three persons and were sentenced to suffer rigorous imprisonment for life imprisonment. Having considered the charge framed against all the appellants and the judgment of the trial Court the learned Single Judge in paragraph 15 of the impugned order observed thus:

“In view of the above, it would be clear that even the conviction of the petitioners on charge No.5 is relating to murder of three victims caused by the petitioners. It cannot, therefore, be said that the petitioners were convicted only on a single count, as contended by the learned counsel for the petitioners, as, undoubtedly, the petitioners were charged separately with regard to each murder and were also charged cumulatively for the murder of three victims. In my view, therefore, the case of the petitioners, being clearly within the exceptions provided under clause 5(ii) of the aforesaid G.O., their case for remission was rightly not considered by the first respondent. Hence, the issue is accordingly answered in the negative.”

Learned counsel appearing for the appellants placed reliance upon the judgment of the Supreme Court in **Santosh Kumar Singh vs. State of Madhya Pradesh** to contend that the Sessions Court while convicting the appellants have not made it clear as to on how many counts the appellants were convicted. Merely, because the learned Sessions Judge has not stated so, cannot be the ground to hold that all the appellants were convicted on one count, and therefore they are entitled for remission under clause 5(ii) of G.O.Ms.No.220. It is clear from the facts of the present case, the view taken by the learned Single Judge is correct and deserves no interference by this Court.

Hence, the appeal is dismissed.

Miscellaneous petitions, if any, also stand dismissed.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

Date: 16.06.2015

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