

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 5554 OF 2021.

Ramesh Mohan Verma

...Petitioner.

Versus

The State of Maharashtra.

..Respondent.

Ms. Saima Ansari – Legal Aid Appointed Advocate for the Petitioner.
Mr. K.V. Saste APP for the Respondent-State.

Coram : Nitin W. Sambre &
Sharmila U. Deshmukh, Jj.

Date : June 14, 2023.

P. C. :

1. The petitioner along with three other co-accused was convicted for the offence punishable under section 302 read with 34 of the Indian Penal Code, 1860 vide the judgment dated 31st July 2008 delivered in Sessions Case No.149 of 2006 and was sentenced to undergo life imprisonment. The said judgment is confirmed in Criminal Appeal No. 889 of 2008.

2. Since the conviction is for life, the respondent authorities have categorised the petitioner to suffer RI for 24 years.

3. The case of petitioner is that he is entitled for benefit pursuant to the Government Resolution (for short, "GR") dated 15th March 2010, as per clause 3(b). According to Ms. Saima Ansari,

learned counsel for the petitioner, the motive attributed to the petitioner is the commission of crime, i.e., forceful eviction from the immovable property and, as such, clause 3(b) of the aforesaid GR shall apply to the case of petitioner.

4. Learned APP while opposing the aforesaid prayer submits that the categorisation of petitioner is rightly done under clause 4(d) of the aforesaid GR as the offence is committed by 4 accused persons.

5. We have appreciated the said submissions.

6. The prosecution has examined PW-2 Kishanchandra, father of deceased Santosh whose forceful eviction was an issue in the aforesaid trial. Deceased Santosh lost his life while resisting the act of accused persons of forceful eviction.

7. Considering the aforesaid motive, the case of petitioner, in our opinion, is covered by clause 3(b) of the GR dated 15th March 2010 and, as such, he should have been categorised under clause 3(b) of the said GR, making him suffer imprisonment for a period of 22 years and not 24 years. As such, the order impugned is modified thereby categorising the petitioner under clause 3(b) of the aforesaid GR and it is further ordered that the petitioner shall suffer RI for 22 years instead of 24 years.

8. The petition stands allowed in the aforesaid terms.

[Sharmila U. Deshmukh, J.]

[Nitin W. Sambre, J.]