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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20854-2023
Date of decision:27.04.2023

AMIT KUMAR YADAV
...Petitioner
Versus
STATE OF HARYANA
...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Ashish Deep Verma, Advocate and
Ms. Harsh Singh, Advocate
for the petitioner.

Mr. Raman Sharma, Addl. A.G., Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioner became tried by the learned Additional Sessions Judge, Yamuna Nagar, at Jagadhri in respect of FIR No.87 of 28.02.2009, registered at Police Station City Jagadhri. The trial as became entered upon by the learned trial Judge concerned, upon, the above FIR, resulted in his drawing on 07.08.2013, upon Sessions case No.17 of 2009, a verdict of conviction against the petitioner, and, also against the other co-accused concerned. Through a separate sentencing order drawn by the learned trial Judge concerned, on 19.08.2013, he sentenced the convicts in the hereinafter extracted manner.

Name of Convict	Offence U/s	Imprisonment	RI	Fine	Sentence in default of payment of fine. RI
Samir Nain, Amit Yadav and Amit alias Chhuri.	302/34 IPC	Life			
		imprisonment.			
	307/34 IPC	Ten years each.		Rs. 10,000/- each.	Six months each.
	452/34 IPC	Five years, each.		Rs.5,000/- each.	Three months, each.
	25/54/59 Arms Act	Three years, each.		Rs.3,000/-	Two months, each.

2. Moreover, in paragraph 7 of the sentencing order, the learned trial Judge concerned, ordered that the accused shall not be released till their natural life.

3. The aggrieved from the above drawn verdict of conviction, and, also from the consequent therewith sentence of life imprisonment, and, of fine as became imposed upon him, besides from the default sentence(s), as also became imposed, upon them, proceeded to institute thereagainst separate criminal appeals, before this Court, to which respectively appeal Nos.CRA-D-1008-DB of 2013, CRA-D-1424-DB-2013, and, CRA-D-20-DB of 2014, became assigned. This Court through a common order made on 20.03.2019 upon criminal appeals (supra), upheld the verdict of conviction, and, also upheld the consequent therewith sentence(s) of imprisonment, as became imposed, upon the convicts. The above decision, as made by this Court, on 20.03.2019, upon criminal appeals (supra), resulted in one of the convicts making a Special Leave Petition (Criminal) No.3250-2020, before the Hon'ble Apex Court, and, through a decision made on the said SLP (supra), the Hon'ble Apex Court proceeded to dismiss the SLP concerned.

4. Be that as it may, though the effect of the above finality, and, conclusivity, thus acquired by the verdict, as became initially recorded by the learned trial Judge concerned, upon Sessions Case No.17 of 2009, does also result, in an inevitable inference, that the said paragraph, thus making the above speaking becoming also upheld by the Hon'ble Apex Court.

5. In other words, since the above paragraph, as, carried in the verdict, as, made by the learned trial Judge concerned, upon the Sessions case (supra), has merged into the verdict, drawn upon criminal appeals (supra), as became preferred before this Court, at the instance of the convicts, besides merged into the verdict

of dismissal as made by the Hon'ble Apex Court, on SLP (supra). Therefore, the said paragraph acquires a binding effect.

6. Nonetheless, the petitioner yet also had earlier accessed this Court, with a prayer therein that the above paragraph, has resulted in curtailments of the statutory rights of the petitioner, to rather earn lawful remissions from the authorities concerned, so as to ensure that thereby there is an earlier release from the prison, than the term thus required to be spent there for life, by the life convict concerned. The said petition resulted, as disclosed by an order made on 30.11.2022, upon, CRM-M-47320-2022 (Annexure P-5), in the said petition being dismissed as withdrawn. The dismissal of the said petition as withdrawn, but set forth a constraint, upon the petition herein to yet re-motion this Court, as, even if the said petition was dismissed as withdrawn, yet its dismissal as withdrawn, is deemed to be an abandonment of the claim raised earlier by the said petition. Thus, the instant petition is barred to be re-instituted before this Court.

7. However, in the larger interest of justice, the remedy, if any, now available to the petitioner, is only through, his making a motion before the Hon'ble Apex Court, so as to enable him to argue, that the above paragraph carried in the verdict, as made by the learned trial Judge concerned, upon, the Sessions Case (supra), and, which but for reasons aforesaid, has acquired conclusivity, is purportedly made in breach of the mandate carried by the Hon'ble Apex Court in the judgment titled as 'Union of India V. V. Sriharan @ Murugan & others', to which Writ Petition (Criminal) No.48 of 2014 is assigned.

8. With the above observations, the petition is closed.

(SURESHWAR THAKUR)
JUDGE

27.04.2023

Ithlesh

Whether speaking/reasoned:-

Yes/No

Whether reportable:

Yes/No

(KULDEEP TIWARI)
JUDGE