2026:AHC:227976

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2553 of 1987

Panjabi

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s) : G.S. Hajela, Radhey Shyam Yadav
Counsel for Respondent(s) : A.G.A.

Court No. - 86

HON'BLE JAI KRISHNA UPADHYAY, J.

1. This criminal appeal has been filed against the judgment and order dated 20-10-1987 passed by IIIrd Additional District and Sessions Judge, Farrukhabad, in Session Trial No. 165 of 1984 whereby learned Sessions Court has convicted and sentenced the appellant under Section 307 I.P.C. to undergo five years of rigorous imprisonment and under Section 25 of Arms Act to undergo one year of rigorous imprisonment.

2. Heard Sri Radhey Shyam Yadav, learned counsel for the appellant, Sri Ramesh Chandra Gupta, learned A.G.A. for the State and perused the record.

3. The only submission on behalf of the appellant is that for the offence under Section 307 I.P.C. the trial Court has sentenced the appellant for five years rigorous imprisonment. Learned Counsel further submitted that appellant had remained in custody for about two months. It is submitted that neither accused appellant is habitual offender nor was convicted in any other case. It is also submitted that it has been more than 44 years to the incident. The accused appellant is an old man of about 76 years of age suffering from several old age ailments. Thus, it was submitted by learned counsel for the accused- appellant that sentence awarded by the trial Court vide impugned judgment and order be modified and accused-appellant be released in this matter on the basis of imprisonment already undergone.

4. On the other hand, learned A.G.A. supporting the findings recorded by Sessions Court in the impugned judgment and order submitted

that there is no infirmity or illegality in the same. The prosecution has proved its case beyond reasonable doubt. The Court concerned has awarded sentence to the appellant according to the gravity of the offence committed by him.

5. I have considered rival submissions made by learned counsel for the parties and have gone through the entire record carefully.

6. Since learned counsel for the accused-appellant did not challenge the findings recorded by trial Court in the impugned judgment and order regarding guilt of accused- appellant for the alleged offences and confined his argument only to the sentence awarded by learned Sessions Court to accused-appellant, I do not propose to scrutinize the entire evidence minutely in this regard. However, a perusal of entire record including the impugned judgment and order shows that trial Court has considered in detail the entire evidence available on record regarding guilt of accused- appellant for the said offences and keeping in view the offence committed by accused-appellant, I am also of the opinion that prosecution was able to establish the guilt of accused-appellant for the aforesaid offences beyond reasonable doubt. The findings recorded by the trial Court to constitute offence under 307 I.P.C. and under Section 25 of Arms Act, against accused-appellant are correct and the same do not warrant interference by this Court.

7. So far as the question of sentence is concerned, it is a well settled principle that sentence must be just and should simultaneously follow the principle of proportionality between the crime and the punishment. Punishment cannot be totally brushed aside. The principle of just punishment is the bedrock of sentencing in respect of a criminal offence. A punishment should not be disproportionately excessive. The concept of proportionality allows a significant discretion to the court but the same has to be guided by certain principles. In certain cases, the nature of culpability, the antecedents of the accused, manner of assault, the factum of age, the potentiality of the convict to become a criminal in future, capability of his reformation and to lead an acceptable life in the prevalent milieu, the effect - propensity to become a social threat or nuisance, and sometimes lapse of time in the commission of the crime and his conduct in the interregnum bearing in mind the nature of the offence, the relationship between the parties and attractability of the doctrine of bringing the convict to the valuebased social mainstream may be the guiding factors.

Needless to emphasise, these are certain illustrative aspects put forth in a condensed manner.

8. It has been observed by the Hon'ble Apex Court that there can neither be a straitjacket formula nor a solvable theory in mathematical exactitude. It would be dependent on the facts of the case and rationalised judicial discretion. Neither the personal perception of a Judge nor selfadhered moralistic vision nor hypothetical apprehensions should be allowed to have any play. For every offence, a drastic measure cannot be thought of. Similarly, an offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a court. The real requisite is to weigh the circumstances in which the crime has been committed and other concomitant factors which have been indicated hereinbefore and also have been stated in a number of pronouncements by Apex Court. On such touchstone, the sentences are to be imposed. The discretion should not be in the realm of fancy. It should be embedded in the conceptual essence of just punishment. A court, while imposing sentence, has to keep in view the various complex matters in mind. In respect of certain offences, sentence can be reduced by giving adequate special reasons but the special reasons have to rest on real special circumstances.

9. Recently in the case of **Israfil @ Pappu @ Naimuddin Khan Vs. State of Madhya Pradesh, 2026 INSC 654**, the Apex Court held that while considering the question of sentence, the Court is required to balance the nature of the offence with the attendant facts and circumstances of the case, the role attributed to the accused, the period of incarceration undergone, the passage of time and other mitigating circumstances relevant to sentencing jurisprudence. The principle of proportionality remains central to the sentencing process. Sentencing cannot be reduced to a purely retributive exercise divorced from the factual matrix of the case and the overall circumstances of the offender. The Apex Court, in catena of cases before it, while maintaining conviction, had exercised its discretion and had reduced the substantive sentence considering long passage of time, absence of criminal antecedents and other mitigating circumstances.

10. In the instant case, the alleged incident took place about 44 years ago. Accused-appellant alone cannot be held responsible for long delay in disposal of this case. Appellant is not previous convict.

Appellant was on bail and he had never misused the liberty of bail. It was stated that accused- appellant remained in custody for about two months. Considering all aspects of the matter, no useful purpose would be served by sending accused- appellant to judicial custody at this stage, rather it would be appropriate that sentence of five year rigorous imprisonment awarded by the learned Sessions Court be reduced to the period already undergone by him.

11. Accordingly, this criminal appeal is **partly allowed** and the sentence awarded by the learned Sessions Court is hereby reduced to the period already undergone by the appellant. His personal and surety bonds are cancelled and sureties are discharged.

12. A copy of this order be transmitted to the court concerned.

November 2, 2026
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(Jai Krishna Upadhyay,J.)

Digitally signed by :-
ASHOK KUMAR TRIPATHI
High Court of Judicature at Allahabad