

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.A. No. 3 of 2017 with
Crl.A. No. 5 of 2018
Crl.A. No. 4 of 2017 with
Crl.A. No. 6 of 2018

Date of Order : 01.07.2019

Shri. Aseng Sangma	Vs. State of Meghalaya & Ors.
State of Meghalaya	Vs. Aseng Sangma.
Waidel Momin	Vs. State of Meghalaya & Ors.
State of Meghalaya	Vs. Waidel Momin

Coram:

Hon'ble Mr. Justice Ajay Kumar Mittal, Chief Justice

Appearance:

For the Petitioner/Appellant(s) : Mr. K.C.Gautam, Adv.
For the Respondent(s) : Mr. S.Sen, Sr. GA.

1. In these Criminal Appeal No. 3/2017, Criminal Appeal No.5/2018, Criminal Appeal No. 4/2017 and Criminal Appeal No. 6/2018, the issue that arises for consideration at this stage is whether these appeals are to be heard by Division Bench or can be finally disposed of by learned Single Judge.

2. Learned State counsel referred to Rule 6 of Chapter V of the Rules of High Court of Meghalaya, 2013 (in short the Rules) relating to constitution of Division Bench and Full Bench to urge that all cases where life sentence or death penalty has been awarded, the same are to be heard by Division Bench. Rule 6 Chapter V was quoted which reads as under:-

“6. Life sentence and death penalty cases to be heard by Division Bench – All matters where sentence for life/death has been awarded to be heard by the Division Bench including appeals and revisions against acquittal arising out of cases tried under Section 302 IPC.

Provided that a single Judge may hear any appeal, reference, revision and applications in all criminal

matters except those in which sentence of death, or the imprisonment for life is passed:

Provided further that such Judge may refer any particular case he thinks fit to a Division Court:

Provided also that it shall be competent for a single Judge to pass any interlocutory order in any appeal or appeal or any other matter preferable before a Division Bench, unless otherwise ordered by a Division Bench.”

3. Learned State counsel referred to Section 302 of the Indian Penal Code to contend that the State has filed appeals against the sentence of seven years' imprisonment awarded by the Trial Court which is against the statutory provision inasmuch as under Section 302 IPC, the Trial Court after recording conviction is empowered to award death penalty or life sentence only. The awarding of seven years' imprisonment was, assailed by the learned State counsel.

4. On the other hand, learned counsel for the accused submitted that Rule 6 of Chapter V of the Rules relates to where life sentence or death penalty has been awarded by the Trial court. It was argued that in the present case the sentence awarded is seven years and therefore, is to be heard by single bench. It was claimed that the matter has been rightly listed before the learned Single Judge.

5. Undisputedly, these appeals have been filed which relate to an offence under Section 302 IPC. The accused has prayed for acquittal whereas the State has impugned the adequacy of sentence awarded by the Trial court.

6. At this stage without expressing any opinion on the issue raised in these appeals on merit, since the appeals filed by the State are for enhancement of sentence or as urged, the sentence has not been awarded in terms of Section 302 IPC, the appeals should be heard by the Division bench alone as according to the Rules it would not be within the domain of the Single bench to enhance the sentence to death penalty or life imprisonment.

7. Thus, it is clarified that all appeals of convictions or acquittal relating to an offence under 302 IPC, shall be listed before the Division Bench only. The said direction be complied with by the registry meticulously in future.

8. Accordingly, these appeals are directed to be listed before the Division Bench on 01-08-2019.

(Ajay Kumar Mittal)
Chief Justice

Meghalaya
01.07.2019
"Samantha PS"

