

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.556-557 OF 2017

(Arising out of Special Leave Petition (Crl.)..... CRLMP No(s).
2786-2787/2017)

JOGENDRA KUMAR

APPELLANT (s)

VERSUS

STATE OF UTTRAKHAND

RESPONDENT (s)

O R D E R

Delay condoned.

Leave granted.

For the purpose of disposal of these appeals it is suffice to note that three different complaints were filed against the appellant herein by the complainants for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and he was found guilty in all these three cases by the Trial Court vide its common judgment and order dated 18.09.2008. The detail of conviction is as under:

- "1. For the Crime Case No. 2024/2006, he was sentenced to undergo rigorous imprisonment for one year with a fine of Rs. 5,000/-, in default of of fine, he was directed to further undergo simple imprisonment for three months and was directed to pay sum of Rs. 8,30,000/- as compensation.
2. For the Crime Case No. 2527/2006, he was sentenced to undergo rigorous imprisonment for one year along with fine of Rs. 5,000/-, in default, he was directed to further undergo simple imprisonment for three months and was directed to pay Rs.30 lakhs as compensation.
3. For the Crime Case No. 1807/2006, he was sentenced to undergo rigorous imprisonment for one year along

with fine of Rs. 5,000/-, in default, he was directed to further undergo simple imprisonment for three months and was directed to pay sum of Rs.10,80,000/- as compensation."

The appellant preferred appeal against the aforesaid conviction recorded by the Magistrate before the Sessions Court, which acquitted the appellant. However, the said acquittal order has been reversed by the High Court vide impugned judgment dated 17.12.2015. While convicting the appellant, the High Court has also stated that all the sentences shall begin to run from 19.12.2014 and if the appellant has not paid the fine, further imprisonment awarded to him in default of the same will have to be undergone by the appellant. To this extent, there may not be any quarrel in the judgment of the High Court. However, the appellant is aggrieved by the following concluding observation made thereafter by the High Court.

"Needless to say that the convict has to pay the amount of compensation to each of the complainants, as has been directed by the trial court, before his final release from the jail."

The appellant is in jail since 19.12.2014. The sentences which were imposed by the Trial Court and affirmed by the High Court have already been undergone by the appellant. However, because of the aforesaid observation, the appellant is still in jail. Such a situation cannot be countenanced. We are of opinion that it was not proper on the part of the High Court to direct that the appellant shall remain in jail and will be released only if he pays the compensation to each of the complainants, even when the

sentence awarded by the Trial Court in three cases is completed by the appellant.

We, thus, set aside the afore-quoted portion of the order of the High Court and partly allow the appeals. The result thereof would be that the appellant shall be released from custody forthwith as he has already undergone the sentences, which were awarded by the Trial Court. At the same time, we make it clear that it would be open to the complainants to recover the amount of compensation from the appellant, in accordance with law. We are informed that for this purpose, proceedings have already been initiated by the complainants which shall go on and shall be disposed of by the State Authorities in accordance with law.

.....J.
[A.K. SIKRI]

.....J.
[ASHOK BHUSHAN]

NEW DELHI;
MARCH 21, 2017

ITEM NO.6

COURT NO.8

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.)..... CRLMP No(s).
2786-2787/2017

(Arising out of impugned final judgment and order dated 17/12/2015
in CRLMA No. 230/2015 10/03/2016 in CRLMA No. 230/2015 10/03/2016
in MCRC No. 32/2016 passed by the High Court Of Uttarakhand At
Nainital)

JOGENDRA KUMAR

Petitioner(s)

VERSUS

STATE OF UTTRAKHAND

Respondent(s)

CRLMP. 2786-2787/2017 (WITH C/DELAY IN FILING SLP AND OFFICE REPORT)

Date : 21/03/2017 These applications were called on for hearing
today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s) Mr. Prafulla Kumar Behera, Adv.
Ms. Asmita Chaudhary, Adv.
Mr. S. S. Nehra, Adv.

For Respondent(s) Ms. Rachana Srivastava, Adv.
Sukrit R. Kapoor, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The appeal is partly allowed in terms of the signed order.

Pending application(s), if any, stands disposed of
accordingly.

(Ashwani Thakur)

(Madhu Narula)

COURT MASTER

COURT MASTER

(Signed order is placed on the file)