

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**Criminal Appeal Nos 10-11 of 2020
(Arising out of SLP(Crl) Nos 5740-5741 of 2019)**

Sushil Kant Pandey

.... Appellant(s)

Versus

Surgiv Choubey and Anr Etc

....Respondent(s)

ORDER

1 Leave granted.

2 These appeals arise from a judgment and order of a Division Bench of the High Court of Judicature at Patna dated 10 April 2019 in Criminal Appeal (DB) Nos 338 of 2012 and 144 of 2012.

3 The Sessions Judge, Kaimur at Bhabhua, by a judgment dated 18 January 2012 and 24 January 2012, convicted five accused persons, who are impleaded as respondents to the present appeals, of offences under Section 302 read with Section 34 and Section 341 of the Indian Penal Code 1860 and under Section 27 of the Arms Act 1959. The learned Sessions Judge sentenced the accused to imprisonment for life in respect of the offences under Section 302 read with Section 34 and for terms of imprisonment in respect of the remaining offences.

4 An appeal was filed before the High Court which has been allowed on 10 April 2019 by the Division Bench by the judgment which is impugned in the present proceedings.

5 From the judgment of the High Court, it emerges that after recording the submissions of the learned counsel for the accused in paragraph 19 and the submissions of the Additional Public Prosecutor appearing for the State and the learned senior counsel for the informant in paragraph 20, the entire discussion which has led to the acquittal of the accused is contained in paragraph 21 which reads as follows:

“21. Considering the facts and circumstances of the case, the materials available on record and the submissions advanced on behalf of the parties, this Court finds that the submissions advanced by the learned counsel for the appellant has force and agrees with the same.”

6 *Ex facie*, it is evident that the High Court has failed to deal with the appeal in the manner in which an appeal against an order of conviction should be dealt with. There has been no independent analysis of the evidence or for that matter of the submissions which were urged before the High Court by the learned counsel appearing on behalf of the accused – appellants before it, by the learned Additional Public Prosecutor for the State and the learned senior counsel appearing on behalf of the informant. Hence, we are constrained to set aside the impugned judgment and order and to remit the proceedings back to the High Court for consideration afresh.

7 We accordingly allow the appeals and set aside the impugned judgment and order of the High Court dated 10 April 2019. In consequence, Criminal Appeal (DB) Nos 338 of 2012 and 144 of 2012 are restored to the file of the High Court for disposal afresh.

8 The High Court, on remand, may endeavour to dispose of the appeal within a period of six months of the receipt of a certified copy of this order.

9 We clarify that we have not expressed any opinion on the merits of the rival contentions.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Hrishikesh Roy]

**New Delhi;
January 07, 2020**

ITEM NO.23

COURT NO.8

SECTION II-A

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 (CrI.) Nos.5740-5741/2019

(Arising out of impugned final judgment and order dated 10-04-2019 in CRADB No. 338/2012 and CRADB No. 144/2012 passed by the High Court of Judicature at Patna)

SUSHIL KANT PANDEY

Petitioner(s)

VERSUS

SUGRIV CHOUBEY AND ANR. ETC.

Respondent(s)

(WITH IA No. 83504/2019 - EXEMPTION FROM FILING O.T.)

Date : 07-01-2020 These petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Mr. Sakesh Kumar, Adv.
Ms. Gitanjali N. Sharma, Adv.
Mr. Karunakar Mahalik, AOR

For Respondent(s) Mr. Keshav Mohan, Adv.
Mr. Rishi K. Awasthi, Adv.
Mr. Prashant Kumar, Adv.
Mr. Santosh Kumar - I, AOR

Mr. Akhilesh Kumar Pandey, AOR

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

Leave granted.

The appeals are allowed in terms of the signed order.

Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER

(Signed order is placed on the file)