

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 168 OF 2017
(Arising out of SLP (Cr1) No.8451 of 2016)

PRABHU S/O LIMBAJI BADE AND ANR.

... Appellants

VERSUS

THE STATE OF MAHARASHTRA

... Respondent

O R D E R

Leave granted.

The appellants stood charged under Section 307 of the Indian Penal Code and the learned trial Judge convicted them in respect of the said offence and sentenced them to suffer rigorous imprisonment for five years. On an appeal being preferred, the High Court of Judicature at Bombay in Criminal Appeal No.384 of 2003 converted the conviction to one under Section 324 read with Section 34 of the Indian Penal Code and sentenced each of the appellant to suffer rigorous imprisonment of three years.

It is submitted by Ms. Ananga S. Desai, learned counsel for the appellants that the occurrence took place almost 16 years back and the genesis of occurrence spells out that it happened all of a sudden. That apart, it is urged by her that the appellant No.1 is more than four scores and the appellant No.2 is in his late 50's and, therefore, the sentence should be reduced to the period already undergone.

Mr. Nishant R. Katneshwarkar, learned counsel appearing for the State would submit that the High Court has justifiably imposed the sentence and there is no warrant for further reducing the sentence.

Having heard learned counsel for the parties and considering the genesis of occurrence and taking note of the age of the appellant No.1, we restrict the sentence in respect of the appellant No.1 to the period already undergone. As far as the appellant No.2 is concerned, the sentence is reduced from three years to one year. As the appellant No.2 is enjoying exemption, he shall surrender to custody within a period of four weeks hence.

With the aforesaid modification in sentence, the criminal appeal stands disposed of.

.....,J.
(Dipak Misra)

.....,J.
(R. Banumathi)

New Delhi;
January 23, 2017.

ITEM NO.5

COURT NO.2

SECTION IIA

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.) No(s). 8451/2016
(Arising out of impugned final judgment and order dated 12/07/2016
in CRLA No.384/2003 passed by the High Court of Bombay at
Aurangabad)

PRABHU S/O LIMBAJI BADE AND ANR.

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA

Respondent(s)

(with appln. (s) for exemption from filing O.T. and permission to
file additional documents and interim relief and office report)

Date : 23/01/2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. Satyajit A. Desai, Adv.
Ms. Anagha S. Desai, AOR
Mr. Akash Kakade, Adv.

For Respondent(s) Mr. Nishant Ramakantrao Katneshwarkar, AOR

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

Leave granted.

Having heard learned counsel for the parties and considering
the genesis of occurrence and taking note of the age of the
appellant No.1, we restrict the sentence in respect of the
appellant No.1 to the period already undergone. As far as the
appellant No.2 is concerned, the sentence is reduced from three
years to one year. As the appellant No.2 is enjoying exemption, he
shall surrender to custody within a period of four weeks hence.

With the aforesaid modification in sentence, the criminal
appeal stands disposed of in terms of the signed order.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)