

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.1351-1352 OF 2017
(@ S.L.P. (CrI.) Nos.1118-1119 of 2016)

KADVABHAI BECHARBHAI SAVALIYA

APPELLANT (S)

VERSUS

THE STATE OF GUJARAT

RESPONDENT (S)

O R D E R

Leave granted.

Heard Mr.S.K. Jain, learned senior counsel for the appellant and Ms.Hemantika Wahi, learned counsel for the State.

The present appeals by way of special leave call in question the legal propriety of judgment and order dated 9th October, 2015 passed by the High Court of Gujarat at Ahmedabad in Criminal Appeal No.31 of 2010 which was heard along with Criminal Appeal No.2033 of 2009 whereby the Division Bench of the High Court has enhanced the sentence to seven years, though the appellant was convicted under Section 376 of the IPC, 1860 by the trial court and

sentenced to three years' imprisonment. It is submitted by Mr.S.K.Jain, learned senior counsel for the appellant that though the appeals were preferred by the appellant, the High Court has not dwelt upon the materials on record warranting conviction but straightway proceeded to enhance the sentence regard being had to the prescription of the minimum sentence. Ms.Hemantika Wahi, learned counsel appearing for the State has, on other other hand, supported the judgment passed by the High Court.

On a careful scrutiny of the judgment, conviction and order of sentence passed by the High Court, we notice that there has been no analysis with regard to the oral and documentary evidence brought on record and the plea taken by the accused and all such aspects which are required to be dealt with on an appeal. The High Court should have taken into account the contentions while exercising the appellate jurisdiction, as it is required to scrutinize the justifiability and acceptability of the judgment of the trial court. As the said scrutiny and analysis are absent, we are compelled to set aside the judgment rendered by the High Court and remit the matter to it for fresh adjudication. Since the incident is of long time back, we request the High Court to decide the criminal

appeals as expeditiously as possible preferably within six months from today.

The criminal appeals are disposed of accordingly.

.....J.
(DIPAK MISRA)

.....J.
(A.M.KHANWILKAR)

NEW DELHI,
AUGUST 8, 2017.

ITEM NO.40

COURT NO.2

SECTION II-B

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).1118-1119/2016
(Arising out of impugned final judgment and order dated 09-10-2015
in CRLA No.2033/2009 09-10-2015 in CRLA No.31/2010 passed by the
High Court of Gujarat at Ahmedabad)

KADVABHAI BECHARBHAI SAVALIYA

Petitioner(s)

VERSUS

THE STATE OF GUJARAT

Respondent(s)

Date : 08-08-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Petitioner(s)

Mr.S.K. Jain, Sr.Adv.
Ms.Pratibha Jain, AOR

For Respondent(s)

Ms.Hemantika Wahi, Adv.
Ms.Jesal Wahi, Adv.
Ms.Puja Singh, Adv.
Ms.Shodhika Sharma, Adv.

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

Leave granted.

The criminal appeals are disposed of in terms of the
signed order.

(Ashok Raj Singh)

Court Master

(Signed Order is placed in the file)

(H.S.Parasher)

Assistant Registrar