

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 117 OF 2017

ATUL M. PAREKH

... APPELLANT(S)

VS.

CENTRAL BUREAU OF INVESTIGATION

... RESPONDENT(S)

WITH

CRIMINAL APPEAL NO. 248 OF 2014

CRIMINAL APPEAL NO. 139 OF 2017

CRIMINAL APPEAL NO. 138 OF 2017

CRIMINAL APPEAL NO. 136 OF 2017

CRIMINAL APPEAL NO. 140 OF 2017

CRIMINAL APPEAL NO. 137 OF 2017

O R D E R

CRIMINAL APPEAL NO. 117, 139, 138, 136, 140, 137 of 2017

1. Heard the learned counsel appearing for the parties.
2. In all these cases, the appellants have been arrayed as accused for the offence punishable under Sections 120-B, 409 r/w Section 109, 403, 411, 420, 467, 471, 477A of the Indian Penal Code, 1860 (for short, 'IPC') and under Sections 13(1) (c) & 13(1)(d) r/w Section 13(2) of the Prevention of Corruption Act, 1988 (for short, 'the PC Act').
3. The Trial Court in Special Case No. 2 of 1994 rendered conviction against the appellants. The Special Case no. 2 of 1994 and Special Case No. 4 of 1994 emanate from common FIR in R.C. 52/A/92. In both these cases, the main accused died

several years ago.

4. Cases have been registered touching upon a series of events involving the main accused. Separate cases have been registered, and even amongst those cases they have been divided into separate trials. In one amongst such cases filed by *Ram Narayan Popli vs. Central Bureau of Investigation*; (2003) 3 SCC 641, the three Judges Bench of this Court while confirming the conviction by a ratio of 2:1 passed the following order:

“385. In the result it is held that:

(1) Criminal Appeal No. 521 of 2000 filed by the State against A-2 Ambuj Sushil Kumar Jain is dismissed.

(2) Criminal Appeal No. 1097 of 1999 filed by A-4 Ram Narayan Popli is allowed and he is acquitted of all the offences alleged against him.

(3) Further, in view of the judgment rendered by the majority, Criminal Appeals Nos. 1117 of 1999, 1141 of 1999 and 1150 of 1999 filed by A-1 Pramod Kumar Pritam Lal Manocha, A-3 Vinayak Narayan Deosthali and the deceased A-5 Harshad Shantilal Mehta respectively are partly allowed. The order of conviction awarded by the Special Court in respect of A-1, A-3 and A-5 is confirmed. However, sentence of A-1 and A-3 is reduced to the period already undergone.

386. Ordered accordingly.”

5. Thereafter, a Division Bench of this Court in *Vinayak Narayan Deosthali vs. Central Bureau of Investigation*, (2015) 2 SCC 553, once again confirmed the order of conviction but reduced the sentence of imprisonment to the period undergone.

6. The aforesaid two decisions have been followed by a series of other orders by this Court by modifying the

sentence to the period already undergone as could be seen in Criminal Appeal No. 796 of 2005 and Criminal Appeal No. 797 of 2005 vide order dated 04.03.2016 and others. We do not wish to multiply the subsequent orders passed by this Court.

7. Though the learned senior counsel appearing for the respondent placed reliance upon the decision rendered by this Court in (2015) 4 SCC 353 and 2009 (11) SCC 737, we are of the view that the aforesaid two decisions merely confirmed the conviction. In other words, the question of reduction of sentence was not the subject matter in those set of cases. On the contrary, as already pointed out by the counsel appearing for the appellants as against the reduced sentence imposed, the Criminal Appeal No. 338 of 2008 filed by the Central Bureau of Investigation has been dismissed on 04.03.2016.

8. In view of the aforesaid factual position, we are inclined to agree with the submissions made by the learned senior counsel Mr. Jayant Mehta that at the relevant point of time - when the offence was committed attracting the provisions of the PC Act, there was no minimum sentence imposed under the statute. Perhaps, that is the reason why the orders have been passed by this Court, as noted above. We are also constrained to take note of the fact that the occurrence took place in the year 1992, and now more than three decades have passed. Most of the appellants were middle aged persons at the relevant point of time and now they are at an advanced stage of their life.

9. In such view of the matter, we are not inclined to take

a different view than the one taken previously by this Court from time to time, pertaining to the same series of events. Accordingly, while confirming the conviction rendered, we would like to modify the sentence to the effect that the appellants shall appear before the Trial Court on 29<sup>th</sup> November, 2023 and undergo the sentence of one day by being under the custody of the Court from 10.30 am till the rising of the Court. Insofar as the fine imposed is concerned, the same shall stand confirmed. The statement of the learned counsel appearing for the appellants, that the fines have been deposited is recorded and therefore, they shall stand forfeited.

10. It is further clarified that our order will not stand in the way of the Trial Court in the matters which are pending trial as being confined to the facts of the case.

11. Accordingly, appeals stand allowed in part.

12. Pending application(s), if any, stand disposed of.

Criminal Appeal No. 248 of 2014

13. The appellant stood charged and convicted for the offence punishable under Section 420, IPC while acquitted of the charges punishable under Sections 411, 465, 467, 468, 471 and 120-B of the IPC. Accordingly, he was sentenced to undergo five years rigorous imprisonment and to pay fine of Rs. 10 Lakhs. The appellant was also directed to pay compensation of Rs. 40.40 crore to the State under Section 357(3) of the Cr.P.C. Challenging the said conviction and sentence, the present appeal is before us.

14. As rightly submitted by learned counsel appearing for the appellant that the issue involved has already been dealt by us in Criminal Appeal Nos. 117, 139, 138, 136, 140, 137 of 2017 wherein after taking note of the decision rendered by this Court in *Ram Narayan Popli vs. Central Bureau of Investigation*; (2003) 3 SCC 641, the sentence imposed was modified while confirming the conviction to undergo one day sentence till the rising of the Court. Learned counsel appearing for the appellant submits that the appellant stands at a different footing inasmuch as he has already undergone 58 days incarceration and therefore, he stands at the same footing as that of appellants in the case of *Ram Narayan Popli* (supra). It is submitted that insofar as the conviction is concerned, an affidavit has been filed to the effect that the same may be confirmed provided that the appellant is given the relief of modifying the sentence to the one undergone already. Incidentally, he submitted that appellant is a heart patient and aged about 63 years. Learned counsel also made an endeavour to convince the Court on the question of compensation imposed by the Trial Court.

15. Learned counsel appearing for the respondent(s) submitted that the compensation has been given by the Court by taking into consideration the facts averred therein. The finding of the Trial Court is to the effect that a sum of Rs. 10,69,00,000/- (Rupees Ten crores sixty nine lakhs) has been misappropriated by the appellant. That is the reason why interest component @ 18% for the period of twenty one years

has been added.

16. We are concerned with two issues before us. One is with respect to the sentence required to be modified and the other is compensation. While we are willing to consider the case of appellant insofar as the sentence is concerned, we do not find any reason to interfere with the judgment of the Trial Court on the imposition of the compensation. The liability fastened on the appellant, as recorded by the Trial Court, has not been satisfactorily and effectively challenged before us. On the contrary, the appellant has filed an affidavit stating that he will go along with the conviction. Since we find that the Trial Court was correct in arriving at its conclusion, we do not find any reason to modify or set aside the compensation imposed. However, we find force in the submission made with respect to the appropriate sentence to be imposed. In *Ram Narayan Popli* (supra), the larger Bench of this Court was pleased to modify the sentence to the one undergone already. Apart from being heart patient and suffering from diabetes, the appellant is 63 years old. Furthermore, we are dealing with a case which is more than three decades old. Furthermore, similarly placed persons got the sentence modified either for period undergone or a period of one day before the Court till its rising. In such view of the matter, taking into consideration the period of incarceration undergone, we are inclined to modify the sentence to the one undergone already while confirming the conviction and the compensation imposed.

17. Accordingly, the appeal is allowed in part.
18. Pending application(s), if any, stand disposed of.

.....J.  
(M.M. SUNDRESH)

.....J.  
(ARAVIND KUMAR)

NEW DELHI;  
NOVEMBER 01, 2023.

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 117/2017

ATUL M. PAREKH

Appellant(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION

Respondent(s)

[ GROUP MATTER ]

IA No. 182728/2019 - APPLICATION FOR PERMISSION)

WITH

Cr1.A. No. 1236/2014 (II-A)Cr1.A. No. 248/2014 (II-A)

IA No. 14071/2019 - CLARIFICATION/DIRECTION)

Cr1.A. No. 139/2017 (II-A)

IA No. 1222/2017 - SUSPENSION OF SENTENCE)

Cr1.A. No. 138/2017 (II-A)

IA No. 1221/2017 - SUSPENSION OF SENTENCE)

Cr1.A. No. 136/2017 (II-A)

IA No. 1218/2017 - PERMISSION TO FILE LENGTHY LIST OF DATES)

Cr1.A. No. 140/2017 (II-A)Cr1.A. No. 137/2017 (II-A)

Date : 01-11-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH  
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s)

Ms. Kamini Jaiswal, AOR  
Mr. Dhiraj U Mirajkar, Adv.  
Ms. Rani Mishra, Adv.Mr. Iqbal H Syed, Sr. Adv.  
Mr. Shubham Seth, Adv.  
Mr. Anuj Panwar, Adv.  
Mr. Lovekesh Aggarwal, Adv.  
Mr. Nikilesh Ramachandran, AORMr. Sunil Fernandes, AOR  
Mr. Raktim Gogoi, Adv.  
Ms. Nupur Kumar, Adv.  
Ms. Priyansha Sharma, Adv.

Ms. Diksha Dadu, Adv.

Mr. Tanmaya Agarwal, AOR  
Mr. Wrick Chatterjee, Adv.  
Mrs. Aditi Agarwal, Adv.  
Mr. Neel Kamal Mishra, Adv.  
Mr. Vinayak Mohan, Adv.

Mr. Abhimanue Shrestha, AOR  
Mr. Nishant Kumar, Adv.

Mr. Jayant Mehta, Sr. Adv.  
Mr. Amol Chitale, Adv.  
Mr. Sarthak Sharma, Adv.  
Mrs. Pragya Baghel, AOR

For Respondent(s) Mr. K M Nataraj, A.S.G.  
Mr. Bimal Roy Jad, Sr. Adv.  
Mr. Arvind Kumar Sharma, AOR  
Mr. M.k.maroria, Adv.  
Ms. Ranjana Narayan, Adv.  
Mr. Sachin Sharma, Adv.  
Mr. Sanjay Kumar Tyagi, Adv.  
Mr. Harish Pandey, Adv.

Ms. Sonia Mathur, Sr. Adv.  
Mr. Divik Mathur, Adv.  
Mr. Nikhil Chandra Jaiswal, Adv.

Mr. Arvind Kumar Tewari, AOR

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

Criminal Appeal Nos. 117, 139, 138, 136, 140, 137 of 2017 & 248 of 2014

Criminal appeals are allowed in part in terms of the Signed Order which is placed on the file.

Pending application(s), if any, stand disposed of.

Criminal Appeal No. 1236 of 2014

Post the matter after four weeks.

(KAPIL TANDON)  
COURT MASTER (SH)

(RAVINDER KUMAR)  
COURT MASTER (NSH)

(RENU BALA GAMBHIR)  
COURT MASTER (NSH)