

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL Nos. 433-435 OF 2019
[@ Special Leave to Appeal (CrI.) No(s). 1701-1703/2019]

MOHD. ASHRAF & ANR.

Appellant(s)

VERSUS

THE STATE OF JAMMU AND KASHMIR

Respondent(s)

O R D E R

Leave granted.

We have heard learned counsel for the parties.

These appeals have been filed against the judgment dated 16.11.2018 passed by the High Court by which the criminal appeal filed by the appellants is dismissed.

Aggrieved by the order of the High Court, the appellants have filed these appeals.

The appellants were tried and convicted by the Sessions Judge on 31.03.2004 and sentence to undergo rigorous imprisonment for a term of three years under Sections 324/34 of the RPC with a fine of Rs.5000/- each and in default of payment, the accused would suffer rigorous imprisonment of one year.

Notice was issued by this Court on 22.02.2019 only on the quantum of sentence.

Learned counsel for the appellants submits that the incident took place in the year 1994. Appellant No.1 is 60 years of age and appellant No.2 is 82 years of age and

also suffering from serious Glaucoma. He further submits that the appellants are agriculturists and have no previous criminal history and a submission was also made before the High Court to extend the benefit of Section 4 of the Probation of Offenders Act which was not acceded to by the High Court.

It is further relevant to note that the High Court has reduced the sentence from three years to one year.

Learned counsel for the State does not dispute the fact that the incident took place in the year 1994 and appellant No.2 is suffering from Glaucoma. He further submits that the appellants have undergone three months' custody.

Looking into the facts and circumstances of the case, we are of the view that ends of justice be served in upholding the conviction and releasing the appellants on the sentence already undergone. We do so accordingly.

The criminal appeals are accordingly disposed of.

.....J.
[ASHOK BHUSHAN]

.....J.
[K.M. JOSEPH]

NEW DELHI;
MARCH 5, 2019.

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). 1701-1703/2019

(Arising out of impugned final judgment and order dated 16-11-2018 in CRA No. 9900016/2004 and order dated 28-12-2018 in CRMC No. 735/2018 and IA No. 1/2018 passed by the High Court Of J & K At Jammu)

MOHD. ASHRAF & ANR.

Petitioner(s)

VERSUS

THE STATE OF JAMMU AND KASHMIR

Respondent(s)

(FOR I.R. and IA No.29835/2019-EXEMPTION FROM FILING O.T.)

Date : 05-03-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHUSHAN
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s)

Mr. Amit Anand Tiwari, AOR
Mr. Vikram Sharma, Adv.
Ms. Harshal Gupta, Adv.
Ms. Devyani Gupta, Adv.

For Respondent(s)

Mr. M. Shoeb Alam, Adv.
Mr. Ujjwal Singh, Adv.
Mr. Gautam Prabhakar, Adv.
Mr. Mojahid Karim Khan, 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.

Pending application stands disposed of.

(MEENAKSHI KOHLI)
COURT MASTER(RENU KAPOOR)
COURT MASTER

[Signed order is placed on the file]