

ITEM NO.20

Court 6 (Video Conferencing)

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.3091/2020

(Arising out of impugned final judgment and order dated 07-02-2020 in CRLMA No.1/2020 passed by the High Court of Gujarat at Ahmedabad)

ATUL NIRANJANBHAI KAVISHWAR

Petitioner(s)

VERSUS

JIGNESH @ JIGO GANGARAM SONI & ANR.

Respondent(s)

(With appln.(s) for IA No.98663/2020 - APPLICATION FOR PERMISSION and IA No.67155/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 01-03-2021 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s) Ms. Sakshi Kakkar, AOR
Ms. Aastha Mehta, Adv.
Ms. Vishakha, Adv.

For Respondent(s) Mr. Nikhil Goel, AOR
Ms. Naveen Goel, Adv.
Mr. Dushyant Sarna, Adv.
Mr. Vinay Mathew, Adv.

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

- 1 The High Court by its order dated 7 February 2020 granted a suspension of sentence under Section 389(1) of the Code of Criminal Procedure 1973 to the first respondent who has been convicted of an offence under Section 302 of

the Indian Penal Code. By the date on which suspension of sentence was granted, the first respondent had undergone nearly 11 years of imprisonment.

- 2 In the facts and circumstances and having due regard to the time which has since elapsed since the order of the High Court, we are not inclined to interfere with the order of the High Court under Article 136 of the Constitution.
- 3 Ms Aastha Mehta, learned counsel appearing on behalf of the petitioner submits that though the criminal appeal before the High Court was listed earlier, it would appear that the appeal could not be taken up. Learned counsel submitted that the first respondent should be set to terms to cooperate in the expeditious disposal of the appeal and the order suspending the sentence should not be a ruse to delay the hearing of the appeal. We find the request to be unexceptionable.
- 4 In order to allay the apprehension expressed on behalf of the petitioner, Mr Nikhil Goel, learned counsel appearing on behalf of the first respondent states that the first respondent would cooperate in the expeditious disposal of the criminal appeal and that the first respondent shall not apply for adjournment of the proceedings before the High Court. We request the High Court to take up the appeal at an early date preferably by the end of 2021.
- 5 In the event that the High Court finds that the first respondent has not extended cooperation in the expeditious disposal of the criminal appeal, the High Court would be at liberty to take such steps as are necessary in law in that regard.
- 6 Subject to the above, the Special Leave Petition is disposed of.
- 7 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Court Master