



2023INSC806

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.1726 OF 2015

HARENDRA RAI

...APPELLANT(S)

VERSUS

THE STATE OF BIHAR & ORS. ...RESPONDENT(S)

J U D G M E N T

VIKRAM NATH, J.

1 The acquittal of respondent no.2 recorded by the Trial Court and the High Court was reversed vide judgment dated August 18, 2023 and respondent no.2 was convicted under Section 302 and 307 of the Indian Penal Code, 1860¹. By the same order it

¹ IPC

was directed to take respondent no.2 into custody and produce him today in Court for being heard on sentence.

2 Crl.M.P.No.169246 of 2023 was filed by respondent no.2 with a prayer to permit him to appear virtually considering his health conditions and that he was already undergoing life sentence in another murder case. Crl.M.P. is allowed. Respondent no.2 is present virtually from jail and is duly represented by his counsel.

3 We have heard learned counsel for the parties.

4 Considering the facts and circumstances of the case and the findings recorded by us and also taking into consideration the fact

that the incident is of the year 1995, almost 28 years old, awarding death sentence would not be appropriate and as such we award imprisonment for life to respondent no.2 under Section 302 IPC along with fine of Rs.20 lacs. Further, respondent no.2 is awarded 7 years rigorous imprisonment under Section 307 IPC along with fine of Rs.5 lacs. Distribution of fine will be indicated a little later. Both the sentences to run concurrently.

- 5 The fine has been awarded of the magnitude referred to above considering the shocking facts and circumstances of the case which have been considered in detail and findings

recorded in the judgment dated August 18, 2023.

6 Section 357 of the Code of Criminal Procedure, 1973² provides that whenever fine is imposed as a sentence, the Court may while passing the judgment, order the whole or in part of the fine recovered to be applied as per clauses (a) to (d) of sub-section (1) thereof. Clause (a) provides for defraying the expenses incurred in the prosecution. We are not inclined to grant any such expenses to the State considering the fact that the State in fact did not prosecute the case fairly, rather throughout assisted the accused. Clause (b) and (d) also will have no

² CrPC

application, however, under clause (c) considering the conduct of accused no.2, further the mental, physical, and financial damages suffered by the victim's family, the two deceased and the injured, we direct that the fine awarded to be paid as damages in the following manner:

- a) We award damages of Rs.10 lacs each to the legal heirs of two deceased Rajendra Rai and Daroga Rai. The Trial Court will get a preliminary enquiry conducted with regard to the legal heirs of the two deceased and the amount will be disbursed to the legal heirs as per the law of Succession.

b) Similarly, the amount of fine awarded under section 307 IPC of Rs.5 lacs would be disbursed in the same manner by the Trial Court to the victim if she is alive and if not, to her legal heirs.

7 Considering the conduct of the State as noticed in the judgment dated August 18, 2023 and also the amount of trauma and harassment faced by the victim's family, we are of the view that in addition to the damages awarded under section 357 CrPC further compensation be awarded under section 357-A CrPC. The State of Bihar will compensate the legal heirs of the two deceased and the injured if alive otherwise her legal heirs in the like amount of the fine

awarded above i.e. Rs.10 lacs each to the legal heirs of the deceased Rajendra Rai and Daroga Rai and Rs.5 lacs to the injured Smt. Devi or her legal heirs, as the case may be. The amount so deposited will be disbursed in the same manner as provided above for disbursement of the damages under section 357 CrPC.

- 8 Amount of fine and compensation as awarded above to be deposited with the Trial Court within two months from today failing which the same shall be got recovered as arrears of land revenue by the Trial Court. Appeal stands disposed off as above.

9 Compliance report to be submitted by the Trial Court to this Court within four months. Registry to circulate the compliance report if filed, and if not filed within the time allowed, the matter may be listed with office report for directions.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[ABHAY S. OKA]

.....J.
[VIKRAM NATH]

New Delhi
September 01, 2023