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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 564 OF 2021
(Arising out of S.L.P.(CrI.) No. 3050 of 2021)

MANOHAR @ MANUAppellant(s)

Vs.

THE STATE OF KARNATAKARespondent(s)

O R D E R

Leave granted.

The appellant stands convicted under Section 396 IPC and sentenced to undergo imprisonment for life without any entitlement of remission for a period not less than 20 years.

Shri Deshpandey, learned counsel appearing for the appellant relied on (2016) 7 SCC 1 and submits that the trial court was not competent to direct that no remission would be awarded before 20 years. He submits that in view of the Constitution Bench judgment, the trial court lacked jurisdiction to do so. The High Court, therefore, erred in not considering this aspect of the matter simply affirming the order of the trial court.

Mr. Raghupathy, learned counsel opposing the appeal relied on the same judgment to submit that there is no infirmity in the order. The court was competent to deny remission and once a judicial forum denies remission, the question of grant of any remission to the accused does not arise.

We have considered the submissions on behalf of the parties. The appellant and the co-accused on 05.08.2007 are stated

to have gone to the house of the deceased in the morning under the pretext of purchasing sarees. The dead body of the deceased was found in a pool of blood inside the house. A gold chain, four gold bangles and a set of diamond rings were found missing. The appellant was thus convicted on the basis of the evidence available with which we find no reason to interfere and, therefore, we had issued limited notice with regard to the denial of remission before 20 years.

The controversy with regard to whether the trial court imposing a sentence of life imprisonment could order denial of remission before 20 years stands fully considered in V. Sriharan more particularly at paragraph 105, which is extracted below-

“105. We, therefore, reiterate that the power derived from Penal Code for any modified punishment within the punishment provided for in the Penal Code for such specified offences can only be exercised by the High Court and in the event of further appeal only by the Supreme Court and not by any other court in this country. To put it differently, the power to impose a modified punishment providing for any specific term of incarceration or till the end of the convict's life as an alternate to death penalty, can be exercised only by the High Court and the Supreme Court and not by any other inferior court.”

In view of the Constitution Bench judgment, the sentence denial remission for a period of 20 years is therefore unsustainable. The High Court failed to consider this aspect of the matter. We, therefore, allow the appeal only to the extent that the part of the sentence for denial of remission before expiry of 20 years is set aside. The conviction of the appellant under Sections 396 is not interfered with.

The appellant is stated to have completed over 13 years of custody. Any application for remission filed by him, needless to state has to be considered on its own merits in accordance with law.

.....J.
(NAVIN SINHA)

.....J.
(R. SUBHASH REDDY)

New Delhi;
6th July, 2021.

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 (CrI.) No. 3050/2021

(Arising out of impugned final judgment and order dated 29-09-2015 in CRLA No. 588/2011 passed by the High Court of Karnataka at Bengaluru)

MANOHAR @ MANU

Petitioner(s)

VERSUS

THE STATE OF KARNATAKA

Respondent(s)

(IA No. 43760/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 06-07-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE R. SUBHASH REDDYFor Petitioner(s) Mr. Chinmay Deshpandey, Adv.
Mr. Anirudh Sanganeria, AORFor Respondent(s) Mr. V. N. Raghupathy, AOR
Mr. Md. Apzal Ansari, Adv.UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed only to the extent that the part of the sentence for denial of remission before expiry of 20 years is set aside in terms of signed order.

Pending application(s) shall stand disposed of.

(NEETA SAPRA)
COURT MASTER (SH)

(Signed order is placed on the file)

(DIPTI KHURANA)
COURT MASTER (NSH)