

Sanjay Solanki vs Bheru Lal . on 14 January, 2020

Bench: N.V. Ramana, Sanjiv Khanna, Krishna Murari

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IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRL.M.A. NO. 1665 OF 2019

IN

CRIMINAL APPEAL NO. 1499 OF 2012

SANJAY SOLANKI

..... APPLICANT (S)

VERSUS

BHERU LAL AND OTHERS

..... RESPONDENT (S)

ORDER

This is an application for correction of the order dated 27 th September 2012 whereby the afore-captioned Criminal Appeal was disposed of observing that the High Court had not committed any error in modifying the sentence awarded to the accused persons, except that the compensation amount to be paid to the complainant and others was required to be enhanced. It was directed as under:

“7...Accordingly, we enhance the amount of compensation to a sum of Rs.1,50,000/- to be paid within a month’s time by the accused persons out of which Rs.75,000/- is ordered to be paid to Mr. Sanjay, appellant-complainant and the balance amount to be shared between Smt. Shakuntala and Smt. Sangita respectively. In case the accused persons fail to pay the amount as directed by us within the time granted, they shall undergo the sentence as awarded by the Trial Court.” Date: 2020.01.16 16:10:44 IST Reason:

2. The High Court, in its judgment in Criminal Appeal No. 859 of 2007 titled Bheru Lal and Others v. State of Madhya Pradesh, decided on 6th July 2009, while upholding the conviction of the accused under Section 326, 325 and 323 read with Section 34 of the Indian Penal Code, 1860 had reduced the jail sentence to the period already undergone, subject to accused No.1 Bheru Lal depositing Rs.20,000/-, accused Nos. 2, 3 and 5, that is, Shiv Narayan, Ramesh and Smt. Chanda Bai,

depositing Rs.5,000/- each, and accused No.4 Sanju depositing Rs.25,000/-. It was further directed that this amount of Rs.60,000/- shall be distributed/paid to the complainant Sanjay and Ranjeet (Rs.20,000/-

each) and Shakuntala and Sangita (Rs.10,000/- each) as compensation. Directions were also issued in case of failure to pay compensation.

3. The present application seeks modification of the above-quoted portion of the order dated 27th September 2012 passed by this Court as it is stated that the name of Ranjeeta has been incorrectly mentioned as Sangita.

4. We were a little surprised at the request/prayer made, for the application seeking aforesaid correction/modification was filed on 4 th June 2019, nearly seven years after the appeal was disposed of vide order dated 27th September 2012. As noticed above, the High Court's judgment also refers to Sangita as the person entitled to compensation. Accordingly, vide order dated 4th October 2019, the applicant, namely Sanjay Solanki, who was also the appellant/complainant in the appeal before this Court impugning the judgment of the High Court dated 6 th July 2009, was asked to file an Affidavit-cum-Undertaking that if the plea raised by him is found to be false, he may be prosecuted in accordance with law.

5. The applicant Sanjay Solanki has filed an affidavit stating that Ranjeeta is his wife and resides with him. Affidavit of Ranjeeta has also been filed enclosing therewith various documents to show and establish that she is the wife of the complainant Sanjay Solanki. It is also stated that Ranjeeta had appeared and testified as PW-9, as is apparent from paragraph 6 of the judgment dated 6 th July 2009 passed by the High Court. The error/mistake, it appears, had occurred as in the latter part of the judgment of the High Court, Ranjeeta has been described as Sangita and Rs.10,000/- was directed to be paid as compensation to her. We also find that in the special leave petition preferred against the judgment dated 6th July 2009, at several places Ranjeeta has been described as the wife of complainant Sanjay Solanki who had filed the special leave petition, albeit at some places she has been described as Sangita.

6. Taking into account the averments made in the application and the Affidavit-cum-Undertaking filed by the applicant/appellant Sanjay Solanki and Ranjeeta, wife of Sanjay Solanki, we accept the prayer made in the application and accordingly correct and modify paragraph 7 of the order dated 27th September 2012, the relevant portion of which shall now read as under:

“7. We have heard Mr. Shiv Kumar Suri, learned counsel for the appellant and Mr. Gaurav Teotia, learned counsel for the respondents. We have carefully perused the reasons assigned by the High Court, while modifying the sentence awarded by the learned Additional Sessions Judge. We are of the opinion that the High Court has not committed any error in modifying the sentence awarded to the accused persons, except the compensation ordered to be paid to the complainant and others. Therefore, we are of the view that compensation amount ordered by the High Court requires to be enhanced and ordered to be paid to the complainant/appellant and

others. Accordingly, we enhance the amount of compensation to a sum of Rs.1,50,000/- to be paid within a month's time by the accused persons out of which Rs.75,000/- is ordered to be paid to Mr. Sanjay, appellant-complainant and the balance amount to be shared between Smt. Shakuntala and Smt. Ranjeeta respectively. In case the accused persons fail to pay the amount as directed by us within the time granted, they shall undergo the sentence as awarded by the Trial Court."

7. The compensation be accordingly paid to Ranjeeta, wife of Sanjay Solanki. The application stands disposed of.

.....J. (N.V. RAMANA)J. (SANJIV KHANNA)
.....J. (KRISHNA MURARI) NEW DELHI;

JANUARY 14, 2020.

ITEM NO.9

COURT NO.2

SECTION II-A

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

Miscellaneous Application No.1665/2019 in CrI. Appeal No. 1499/2012 SANJAY SOLANKI Applicant(s)/Appellant/(s) VERSUS BHERU LAL & ORS. Respondent(s) (FOR ADMISSION and IA No.96125/2019-APPLICATION FOR RECTIFICATION) Date : 14-01-2020 This petition was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE KRISHNA MURARI For Petitioner(s) Mr. Varinder Kumar Sharma, AOR Mr. R.D. Rathore, Adv.

Mr. Vikas Gupta, Adv.

Mr. S.K. Bandhyopadhyay, Adv.

For Respondent(s) UPON hearing the counsel the Court made the following O R D E R
R The application stands disposed of in terms of the signed order.

Pending application filed in the matter also stands disposed of.

(VISHAL ANAND)
COURT MASTER (SH)

(RAJ RANI NEGI)
ASSISTANT REGISTRAR

(Signed Order is placed on the file)