



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

CRIMINAL APPEAL NOS. 806-807 OF 2023

SHIVKUMAR RAMSUNDAR SAKET ...APPELLANT(S)

VERSUS

THE STATE OF MAHARASHTRA ...RESPONDENT(S)

WITH

CRIMINAL APPEAL NO. 986 OF 2023

CRIMINAL APPEAL NO. 2943 OF 2023

J U D G M E N T

B.R. GAVAI, J.

1. We have heard Ms. Sadhana Jadhav, learned Senior Counsel appearing for the appellant in Criminal Appeal Nos.806-807 of 2023 and Mr. Sudhanshu S. Choudhari, learned Senior Counsel appearing for the appellant in Criminal Appeal No. 986 of 2023.

2. We have also heard Mr. Shrirang B. Varma along with Mr. Varad Kilor, learned counsel appearing on behalf of the respondent-State of Maharashtra.

3. Mr. Shrirang B. Varma, learned counsel appearing for the respondent submits that he has been informed by the jail authorities that appellant-Rajeshsingh Hariharsingh Thakur in Criminal Appeal No. 2943 of 2023 has died on 24.09.2023. In support of the same, he handed over a document received from the jail authorities, which is taken on record.

4. Ms. Jadhav submits that the evidence of PW.4-Sumitkumar Shrishamji Tiwari is full of contradictions. She submits that the only circumstance which is against the appellant-Shivkumar Ramsundar Saket (Accused No.3) is the testimony of PW.4-Sumitkumar Shrishamji Tiwari and PW.28-Sau. Suraj Sharad Gundecha and the recovery of a ladies watch.

5. Ms. Jadhav further submits that in the evidence of Investigating Officer it is proved that PW.4-Sumitkumar Shrishamji Tiwari had substantially improved his version and as such his testimony could not be believed. She further

submits that the recovery of ladies watch would also not be a circumstance to connect the appellant-Shivkumar Ramsundar Saket (Accused No.3), inasmuch as the said watch is commonly found in the market.

6. Ms. Jadhav, in the alternative, submits that in any case the learned High Court was not justified in imposing death penalty upon appellant-Shivkumar Ramsundar Saket. She further submits that even assuming that appellant-Shivkumar Ramsundar Saket had a role to play in the crime still his role could not be segregated from the other accused so as to award him the penalty of death sentence.

7. Mr. Sudhanshu S. Choudhari, learned Senior Counsel appearing for appellant-Balendrasingh Shivmurtisingh Thakur (Accused No.6) in Criminal Appeal No. 986 of 2023 submits that the evidence of PW.4-Sumitkumar Shrishamji Tiwari does not support the prosecution case. He submits that the identification parade is totally farcical and the conviction only on the basis of such an identification parade would not be permissible.

8. Mr. Shrirang B. Varma, on the contrary, submits that the prosecution has established a chain of circumstances which leads to no other conclusion than the guilt of the accused. He submits that the learned Judges of the High Court have culled out the entire chain of circumstances, which are proved. It is, therefore, submitted that no interference is warranted in the present appeals.

9. We have scrutinized the material on record.

10. We find that the learned Trial Judge as well as the learned Judges of the High Court have correctly appreciated the material on record and come to a conclusion that the appellants are guilty of committing the crime.

11. We notice no reason to interfere with the well-reasoned judgment and order of the learned Trial Judge as well as the learned High Court insofar as the aspect of conviction is concerned.

12. However, insofar as the award of capital punishment imposed upon appellant-Shivkumar Ramsundar Saket (Accused No.3) is concerned, we find that the High Court was not justified in imposing it. The learned Trial Judge upon

consideration of the material placed on record had come to a considered conclusion that the present case does not fit in the category of 'rarest of rare cases'. Therefore, unless the finding recorded by the learned Trial Judge was found to be perverse or impossible, the High Court ought not to have interfered with the same. In any case, the role played by appellant-Shivkumar Ramsundar Saket (Accused No. 3) is similar with all the other accused and the case of appellant-Shivkumar Ramsundar Saket (Accused No.3) could not have been segregated to impose death penalty upon him. In that view of the matter, while sustaining the conviction of appellant-Shivkumar Ramsundar Saket (Accused No.3), we are inclined to partly allow the appeal insofar as appellant-Shivkumar Ramsundar Saket (Accused No.3) is concerned.

13. In the result, we pass the following order:

- (i) Criminal Appeal No. 986 of 2023 is dismissed;
- (ii) Criminal Appeal Nos.806-807 of 2023 are partly allowed. The sentence of death imposed by the High Court upon appellant-Shivkumar Ramsundar Saket (Accused No.3) is set aside and the sentence which is

awarded by the Trial Court is restored; and

- (iii) In view of the death of appellant-Rajeshsingh Hariharsingh Thakur, Criminal Appeal No.2943 of 2023 is disposed of as abated.

14. Pending application(s), if any, shall stand disposed of.

.....**J.**
(B.R. GAVAI)

.....**J.**
(PRASHANT KUMAR MISHRA)

.....**J.**
(K.V. VISWANATHAN)

NEW DELHI;
SEPTEMBER 26, 2024.