

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1581 OF 2009

MS. S

...APPELLANT

:VERSUS:

SUNIL KUMAR AND ANR.

...RESPONDENTS

ORDER

1. By a judgment delivered on April 10, 2015, this Court allowed the appeal and convicted respondent No.1 for having committed the offence under Section 376(1) of the Indian Penal Code and sentenced him to undergo imprisonment for seven years and also imposed a fine of Rs.5,000/- which was to be paid in its entirety to the appellant. However, the acquittal of Respondent No.1 for the offence under Section 3(2)(V) of the Act was confirmed. Respondent No.1 was directed to be taken into custody forthwith to undergo the sentence as aforesaid.

2. In spite of service of notice, when the appeal was fixed for hearing from time to time, none appeared before this Court to represent respondent No.1. In these circumstances, it led this

Court to appoint an amicus in this matter to appear on behalf of respondent No.1 accused.

3. The State of Chhattisgarh was duly represented by its counsel. The appellant was also represented through the Supreme Court Legal Services Committee. However, the State and the appellant, none of the parties, drew the attention of this Court that respondent No.1/accused has already died. Accordingly, hearing of appeal was taken up and concluded on 13th March, 2015. The judgment was delivered by this Court on April 10, 2015.

4. At that point of time it was not within the knowledge of this Court that respondent No.1/accused has died. Subsequently, when the matter was placed before us, we have been informed by the learned counsel Ms. Shashi Juneja, that respondent No.1 Sunil Kumar has died on 14.10.2012. Since the said fact was not within knowledge of this Court nor the attention of this Court was drawn to the said fact by the parties, including the State, it would be obvious that the judgment/order dated April 10, 2015 cannot be given effect to at this stage.

5. Accordingly, the judgment and order dated April 10, 2015 already passed in this matter, has to be recalled, recording the fact that the accused respondent No.1 had expired before the appeal was heard out. Hence, this appeal had become abated.

6. Accordingly, on the basis of the statement made by the learned counsel appearing for the State, the judgment dated April 10, 2015, is recalled and this criminal appeal is dismissed for having become abated.

.....J
(**Pinaki Chandra Ghose**)

.....J
(**R.K. Agrawal**)

**New Delhi;
November 16, 2015.**

ITEM NO.1

COURT NO.11

SECTION IIA

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

Criminal Appeal No(s). 1581/2009

MS. S.

Appellant(s)

VERSUS

SUNIL KUMAR & ANR.

Respondent(s)

(office report for direction)

Date : 16/11/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE
HON'BLE MR. JUSTICE R.K. AGRAWAL

For Appellant(s) Mr. Kanhaiya Priyadarshi, AOR (SCLSC)

For Respondent(s) Ms. Shashi Juneja, Adv.
Mr. C. D. Singh, AOR

Ms. Vanshaja Shukla, Adv. (A.C.)

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

The judgment dated April 10, 2015, is recalled and this Criminal Appeal is dismissed having become abated in terms of the signed reportable order.

(R.NATARAJAN)
Court Master

(SNEH LATA SHARMA)
Court Master

(Signed reportable order is placed on the file)