



REPORTABLE

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

**CRIMINAL APPEAL NO.2686 OF 2026
(Arising out of SLP (Crl.) Diary No. 35717 of 2025)**

Munna Moyuddin Shaikh

... Appellant(s)

Versus

State of Gujarat

... Respondent(s)

J U D G M E N T

K. V. Viswanathan, J.

1. Delay condoned.
2. Leave granted.
3. Heard Ms. Jaikriti S. Jadeja, learned counsel for the appellant and Ms. Swati Ghildiyal, learned counsel for the respondent-State.

4. The present appeal calls in question the correctness of the judgment and order dated 18.03.2002 in Criminal Appeal No. 459/2001 passed by the High Court of Gujarat at Ahmedabad. By the said judgment and order, the High Court confirmed the conviction and sentence imposed by the Additional Sessions Judge, Vadodara, Camp at Chhotaudepur, Gujarat (for short, 'Trial Court) in Sessions Case No.33/1998. The Trial Court had convicted the appellant for the offences punishable under Section 302 of the Indian Penal Code, 1860 (for short, 'IPC') as well as under Section 135 of the Bombay Police Act (for short, 'BP Act') and after sentencing him to imprisonment for life also imposed a fine of Rs.25,000/-. Appropriate default sentences were also imposed.

5. Originally, four accused were set up for trial, and the appellant herein was A-2. While the appellant was convicted, the other three accused were acquitted.

6. The case of the prosecution is amply supported by three eye witnesses - PW-1 Arifhusain Inarbhai Mirza, PW-2 Ahmed Ali Mohmmmed Ali Shaikh, and PW-5 Rashid Ali Kadar Ali Makrani. Relying on the evidence of PWs 1,2 and 5, the Trial Court found that the appellant dealt knife blows on the Torso and abdomen of the deceased and caused him injuries resulting in his death. The Trial Court found that the contradictions in the statement of witnesses were only with regard to the other accused (A-1, A-3 and A-4) and there was no contradiction with regard to the case against the appellant. The Court also found corroboration in the medical evidence and on the aspect of discovery of the knife at the behest of the appellant.

7. The High Court confirmed the findings of the Trial Court. The High Court held that all the eyewitnesses were reliable and were corroborated by the discovery of knife as well as by the medical evidence.

8. We have not been persuaded to disturb the concurrent findings on the aspect of conviction. Hence, we are not

disturbing the conviction imposed on the appellant for the offences for which he has been convicted.

9. However, learned counsel for the appellant submitted that the appellant as on today has already undergone without remission, a period of about 23 years, 6 months and 3 days imprisonment. Learned counsel for the appellant submitted that it is eminently a fit case where the sentence of life imprisonment ought to be converted to that of the period already undergone, i.e. about 23 years, 6 months and 3 days.

10. The Constitution Bench of this Court in **Union of India v. V. Sriharan**¹, held as under: -

“Questions (i) and (ii)

(i) **As to whether the imprisonment for life means till the end of convict's life with or without any scope for remission?**

(ii) xxx xxx

xxx xxx

61. Having noted the abovereferred to two Constitution Bench decisions in *Godse* [*Gopal Vinayak Godse v. State of Maharashtra*, AIR 1961 SC 600 and *Maru Ram* [*Maru Ram v. Union of India*, (1981) 1 SCC 107] which were consistently followed in the subsequent decisions in *Sambha Ji Krishan Ji* [*Sambha Ji Krishan Ji v. State of Maharashtra*, (1974) 1 SCC 196, *Ratan Singh* [*State of*

¹ (2016) 7 SCC 1

M.P. v. Ratan Singh, (1976) 3 SCC 470, *Ranjit Singh* [*Ranjit Singh v. UT of Chandigarh*, (1984) 1 SCC 31, *Ashok Kumar* [*Ashok Kumar v. Union of India*, (1991) 3 SCC 498 and *Subash Chander* [*Subash Chander v. Krishan Lal*, (2001) 4 SCC 458. **The first part of the first question can be conveniently answered to the effect that imprisonment for life in terms of Section 53 read with Section 45 of the Penal Code only means imprisonment for rest of the life of the prisoner subject, however, to the right to claim remission, etc. as provided under Articles 72 and 161 of the Constitution to be exercisable by the President and the Governor of the State and also as provided under Section 432 of the Criminal Procedure Code.**”

[Emphasis supplied]

11. Further, this Court in Para 105 held as under:-

105. We, therefore, reiterate that the power derived from the 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.

12. Ms. Jaikriti S. Jadeja, learned counsel for the appellant relied on the judgment of this Court in the case of **Shiva Kumar alias Shiva alias Shivamurthy vs. State of**

Karnataka², wherein in paragraphs 11 & 14, it was held as under:-

“11. What is held by the Constitution Bench in V. Sriharan, cannot be construed in a narrow perspective. The Constitution Bench has held that there is a power which can be derived from IPC to impose a fixed-term sentence or modified punishment which can only be exercised by the High Court or in the event of any further appeal, by the Supreme Court and not by any other court in this country. In addition, the Constitution Bench held that power to impose a modified punishment of providing any specific term of incarceration or till the end of convict's life as an alternative to death penalty, can be exercised only by the High Court and the Supreme Court and not by any other inferior court.

xxx xxx

14. Hence, we have no manner of doubt that even in a case where capital punishment is not imposed or is not proposed, the constitutional courts can always exercise the power of imposing a modified or fixed-term sentence by directing that a life sentence, as contemplated by "secondly" in Section 53 IPC, shall be of a fixed period of more than fourteen years, for example, of twenty years, thirty years and so on. The fixed punishment cannot be for a period less than 14 years in view of the mandate of Section 433-A CrPC.”

[Emphasis supplied]

13. We heard learned counsel for the respondent-State on the issue whether a sentence of life imprisonment could be modified to that of a fixed term and also as to whether such a modification would amount to enhancement of sentence.

² (2023) 9 SCC 817

14. Ms. Swati Ghildiyal, learned Counsel for the respondent-State with her usual fairness brought to the notice of the Court a judgment of this Court in the case of **Birbal Choudhary alias Mukhiya Jee vs. State of Bihar**³,

wherein at paragraph 42, it was held as under:-

“42. Even the last argument of Mr Basant lacks merit. It is to be kept in mind that the Sessions Court had sentenced the appellant for life for conviction under Sections 364-A/34 IPC. It has been held by this Court in Swamy Shraddananda (2) v. State of Karnataka that imprisonment for life would mean full life and not sentence of 14 years which may be grossly disproportionate or inadequate and cannot be called as sentence of life. After specifically taking note of this judgment, the High Court felt it appropriate to award the punishment of imprisonment for 20 years. **It was done not only in the case of the appellant or others who were awarded life imprisonment by the trial court but even two other convicts who were given death sentence, their sentence is also reduced to 20 years' RI. It is, therefore, clear that the High Court while modifying the sentence qua the appellant Birbal, in fact, reduced the same from life imprisonment to 20 years' RI. Therefore, the question of giving any notice under Section 401 CrPC did not arise. The judgment of this Court in Vikas Yadav case is of no help to the appellant. In that case, the main issue was of remission of life sentence and observation in para 39 were made in that context. Otherwise, facts of that case would reveal that life imprisonment by the trial court converted to minimum non-remittable fixed term of 25 years by the High Court was held to be appropriate in the facts of that case. We may mention that the Constitution Bench judgment of this Court in Muthuramalingam v. State has approved the view taken in Swami Shraddananda**

³ (2018) 12 SCC 440

case that life imprisonment would be treated as imprisonment for full life. The issue which fell for consideration was altogether different.”

(Emphasis Supplied)

15. It will be noticed that in the said case, the High Court had modified the imprisonment for life imposed with regard to few of the convicts to that of 20 years. It was further held that since such modification is not enhancement, the question of giving notice under Section 386 read with Section 401 of the Criminal Procedure Code also did not arise.

16. The underlying ratio of the above quoted judgments is that when a sentence of life imprisonment is imposed, Section 53 read with Section 45 of the IPC would convey the meaning that it is till the natural life subject to the right of claiming remission. Hence, modifying a sentence of life imprisonment and imposing a fixed sentence is permissible under the interpretation placed in **Sriharan** (*supra*) and followed in **Shiva Kumar** (*supra*), as long as the period imposed is more than fourteen years of imprisonment.

17. There is one more reason which has compelled us to adopt this course of action. The incident is of 1998 and the appellant was then about 21 years of age.

18. For the reasons stated above, while maintaining the conviction under Section 302 of the IPC and under Section 135 of the BP Act, we modify the sentence of the appellant to the period already undergone i.e. 23 years, 6 months and 3 days.

19. Accordingly, the appeal is partly allowed. We direct that in view of the order made by this Court today, the appellant be set at liberty forthwith, if not required in any other case. Pending application(s), if any, shall stand disposed of.

.....J.
[K. V. VISWANATHAN]

.....J.
[VIJAY BISHNOI]

New Delhi;
26th May, 2026