

[2025 LiveLaw \(SC\) 575](#)

IN THE SUPREME COURT OF INDIA
MAHESHWARI; J., ARAVIND KUMAR; J.
Criminal Appeal No. 517/2018,06-05-2025

ABDUL RAHEMAN DHANTIYA @ KANKATTO @ JAMBURO
versus
THE STATE OF GUJARAT

Supreme Court Rules, 2013 - Order VI Rule 3 - Appeals seeking restoration of death sentence commuted by High Court - In criminal appeals arising from the 2002 Godhra train burning case, where the trial court awarded death sentence to 11 accused (later commuted to life imprisonment by the High Court) and life imprisonment to 20 others, the Supreme Court rejected the convicts' preliminary objection that the State's appeal for restoration of capital punishment must be heard by a three-Judge Bench in light of *Mohd. Arif v. Registrar, Supreme Court of India*, (2014) 9 SCC 737 and Order VI Rule III of the Supreme Court Rules, 2013. The Court held that the cited judgment and Rule apply only where the High Court has confirmed or awarded the death sentence; here, the High Court had commuted it. Accordingly, a two-Judge Bench was competent to hear the State's appeal for restoration of the death sentence along with the convicts' appeals against conviction. (Para 3 & 4)

For Appellant(s): Mr. Irshad Ahmad, AOR Mr. Mushfique Raja, Adv. Mr. Yasser Wali, Adv. Mr. S. Nagamuthu, Sr. Adv. Ms. Quratulain, AOR Mr. Shahid Nadeem, Adv. Mr. Mujahid Ahmed, Adv. Ms. Shagun Mishra, Adv. Mr. J.M. Panchal, Sr. Adv. Mr. Kamal Panchal, Adv. Ms. Swati Ghildiyal, AOR Ms. Devyani Bhatt, Adv. Ms. Srujana Suman Mund, Adv. Ms. Neha Singh, Adv. Mr. Rishi Yadav, Adv. Ms. Astha Singh, Adv. Dr. Dinesh Rattan Bhardwaj, AOR Mr. Sanjay R. Hegde, Sr. Adv. Mr. Salim Inamdar, Adv. Mr. Anas Tanwir, Adv. Mr. Ebad Ur Rahman, Adv. Mr. Ankit Tiwari, Adv. Mr. Masoom Ray Singh, Adv. Mr. Zainab Sheikh, Adv. Mr. Ashish Kumar, Adv. Mr. Fakhre Alam, Adv. Mr. Tanay Hegde, Adv. Mrs. Pragma Baghel, AOR Mr. Abhimanue Shrestha, AOR

For Respondent(s): Mr. J.M. Panchal, Sr. Adv. Mr. Kamal Panchal, Adv. Ms. Swati Ghildiyal, AOR Ms. Devyani Bhatt, Adv. Ms. Srujana Suman Mund, Adv. Ms. Neha Singh, Adv. Mr. Rishi Yadav, Adv. Ms. Astha Singh, Adv. Mr. Irshad Ahmad, AOR Mr. Tripurari Ray, Adv. Mr. Anirudh Ray, Adv. Mr. Vivek Gupta, Adv. 2 Criminal Appeal No. 517/2018 etc. Mr. Vivekanand Singh, Adv. Ms. Shilpa Singh,

ORDER

1) Learned counsel for the appellant has drawn our attention to the order dated 01.09.2016 passed in the proceedings of Criminal Appeal No. 1269 of 2013 (*Mohad Naushad v. State of (Govt. NCT, Delhi)*) and connected appeals wherein the Court referring to the judgment of *Mohd. Arif alias Ashfaq vs. Registrar, Supreme Court of India and Others Etc.* reported in (2014) 9 SCC 737, stated that the matter relating to restoration of death sentence may be heard by three Judges Bench; however, the Registry was directed to place those matters before appropriate Bench.

2) We have perused the judgment of *Mohd. Arif* (supra) wherein, in particular, in reference to Order VI Rule 3 of the SCR, 2013¹, this Court observed that in all cases in which death sentence has been awarded by the High Court, in appeals pending before the Supreme Court only a Bench of three Hon'ble Judges will hear the same.

3) In the case at hand, eleven accused persons were convicted and directed to undergo capital sentence by the Court of Sessions. The said sentence was commuted by the High

¹ Supreme Court Rules, 2013

Court by the impugned order. Therefore, one of the appeals is by the State to restore the capital punishment setting aside the judgment of the High Court.

4) We have perused Order VI Rule 3 of SCR, 2013, which is specific in its terms whereby the appeal or other proceedings arising out of a case in which death sentence has been confirmed or awarded by the High Court shall be heard by a Bench consisting of not less than three Judges. In the present case, the situation is different from as stated in the Rules.

5) It is further to be noted that after the order dated 01.09.2016, by an administrative order of Hon'ble the Chief Justice of India, the matter was directed to be placed before the Bench presided over by Hon'ble Mr. Justice J.K.Maheshwari.

6) In view of the above, we are not inclined to entertain the objection as raised and is hereby repelled.

7) Mr.Sanjay R. Hegde, learned senior counsel appearing for the accused, started the arguments and was on his legs when the Court rose for the day.

8) For further arguments, list on 07.05.2025.

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