

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Case No. CRA No. 12/2009

Reserved on:- 26 .12.2025

Pronounced on:- 29 .12.2025

Uploaded on:- 29.12.2025

Whether the operative part or full judgment is pronounced:- Full

Shameema Begum

....Appellant(s)

Through:-

Ms. Nida Nazir, Advocate with
Mr. S. T. Hussain, Sr. Advocate

V/s

State through Police Station, Bijhama

.....Respondent(s)

Through:-

None

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

JUDGMENT

01. This case bears testimony to the systemic delay in the disposal of criminal cases. The appellant was convicted in relation to an incident dated 10.07.1979, after a trial spanning over thirty years, she was convicted under Section 304-II RPC and sentenced to rigorous imprisonment for five years with a fine of ₹2,000/-, and also under Section 324 RPC to one year's imprisonment with a default stipulation of six months, vide judgment dated 16.07.2009. Thereafter, more than sixteen years have elapsed in finally hearing and deciding the present appeal.

02. Initially, FIR No. 57 of 1979 was registered at Police Station Bijhama under Sections 326 and 324 RPC. Subsequently, the victim succumbed to her injuries on 20.07.1979, whereupon the offence under Section 326 RPC was converted to one under Section 302 RPC. Upon conclusion of the trial, however, the appellant came to be convicted only for the offence under Section 304-II RPC of the Penal Code.

03. Learned counsel for the petitioner vehemently argued that, having regard to the inordinate delay in the trial and disposal of the appeal, the appellant's right to a speedy trial deserves sympathetic consideration. It was submitted that without disturbing the finding of conviction, the mitigating circumstances warranted leniency in sentence.

04. The appellant is now more than seventy years of age, has developed serious ضعف in eyesight, and is unable to pursue the appeal in person. She is a woman residing in a far-flung area of Uri in the Kashmir Valley and belongs to a modest socio-economic background. Considering her physical condition, the prolonged duration of trial and pendency of appeal, learned counsel prayed for a sympathetic view and placed reliance upon judgments reported as (2025) SCC Online Del 4788, (2023) 9 SCC 810, and (2009) 3 SCC 355.

05. There was no representation on behalf of the respondent. During the course of hearing, it was brought to the notice of this Court that the prosecuting agency had not preferred any appeal against the acquittal of the appellant under Section 302 RPC, nor had it challenged the adequacy of

punishment awarded by the trial Court vide judgment dated 16.07.2009. Heard and considered the case on merits.

06. In Pramod Kumar Mishra v. State of Uttar Pradesh, (2023) 9 SCC 810, the Supreme Court noted that the incident had occurred thirty-nine years prior, the co-accused stood acquitted, and their acquittal was not challenged by the State. There was also material indicating old enmity between the parties relating to land and that the occurrence was spontaneous. In those circumstances, the sentence of five years' rigorous imprisonment was reduced to three years. In Vakil Prasad Singh v. State of Bihar, (2009) 3 SCC 355, it was held that the right to a speedy trial is an inalienable right under Article 21 of the Constitution of India and extends not only to trial but also to appellate proceedings. The Court emphasized that in every case alleging violation of this right, a balancing exercise must be undertaken after considering all attendant and mitigating circumstances. Further reliance was placed on Mohammad Giasuddin v. State of Andhra Pradesh, (1977) 3 SCC 287, wherein the Supreme Court underscored that sentencing must be reformatory rather than retributive and that rehabilitation of the offender is a primary goal of modern penology. It was observed that a proper sentence is an amalgam of several factors, including the nature of the offence, the circumstances surrounding it, the age, background, and prospects of rehabilitation of the offender, and the overall societal interest.

07. In view of the settled legal position, while imposing sentence, the Court must consider both aggravating and mitigating circumstances. Sentencing

must strike a balance between deterrence, incapacitation, and rehabilitation, as the absence of one defeat the purpose of the others.

08. Applying the aforesaid principles to the present case, it is evident that the incident occurred on 10.07.1979, the trial continued for more than thirty years culminating in conviction on 16.07.2009, and thereafter another sixteen years were consumed in disposal of the appeal. Though such delays cannot ordinarily ensure to the benefit of a convict, the Court cannot remain oblivious to the reality of prolonged pendency of criminal cases, wherein accused persons remain entangled in the criminal justice system for decades. Sentencing, in the present context, must focus on reform and rehabilitation, enabling the offender to realize the wrong committed.

09. The facts of the case reveal that the appellant gave a blow with an axe to her mother-in-law (PW-1) and subsequently to the deceased, who was the grandmother of her husband, when the latter intervened during a quarrel. The deceased sustained a head injury and succumbed after four days. The trial Court found that there was no medical evidence indicating a depressed fracture of the skull, and though the injury was grievous, the occurrence was not premeditated but arose in the heat of the moment when the appellant was repeatedly asked to irrigate the maize fields. The trial Court also took note of the fact that the appellant is a woman and had suffered the agony of a prolonged trial.

10. The appellant was initially arrested on 21.07.1979 and was released on bail on 25.10.1979. Upon conviction on 16.07.2009, she was again taken into custody but was subsequently enlarged on bail by this Court on 28.07.2009.

At the time of admission of the appeal, the appellant had expressed her intention not to challenge the conviction and sought consideration of release on probation under Section 562 CrPC. However, the State indicated its intention to file an appeal, which was never pursued.

Considering that the offence was committed in a heat of passion without premeditation, that the appellant has suffered incarceration and the ordeal of prolonged proceedings for over 46 years, and that she is now about seventy years old with age-related infirmities, this Court is of the considered view that no useful purpose would be served by maintaining the substantive sentence. As no minimum sentence is prescribed under Section 304-II RPC, the ends of justice would be served by treating the sentence as already undergone and payment of a fine of ₹5,000/-, in default thereof, to undergo simple imprisonment for three months.

Accordingly, the appeal is disposed of. A copy of this judgment be sent to the trial Court along with the record.

(Sanjay Parihar)
Judge

SRINAGAR
29.12.2025
"Mohammad Yasin Dar"

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No