

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL No.186 OF 2019**

SAVITA

... APPELLANT

Versus

STATE OF DELHI

...RESPONDENT

**WITH
CRIMINAL APPEAL No.187 OF 2019**

JITENDER

... APPELLANT

Versus

STATE OF DELHI

...RESPONDENT

O R D E R

1. The instant appeals, by way of special leave, are directed against the common order dated 28.07.2017 passed by the High Court of Delhi at New Delhi in Criminal Appeal No.884 of 2001 and Criminal Appeal No. 10 of 2002 whereby the High Court while disposing of the appeals upheld the conviction and sentence imposed on the appellants-accused by the trial court under Sections 498A and 304 IPC.
2. Today when the matter is taken up for hearing of the bail application in Criminal Appeal No.187 of 2019 both counsels agreed to dispose of the main appeal. In light of the same, we proceeded to dispose of the criminal appeals pending before us.
3. Mr. Siddharth Luthra, learned senior counsel for the appellant submits that as his client has already suffered incarceration for approximately three and half years, he may be enlarged on bail. At the same time, it has been brought to our notice by the learned senior counsel for the appellants that the High Court while

disposing of the appeal filed by the appellants-accused upheld the conviction and sentence imposed by the trial court without the record of the trial court, which was lost during the pendency of the appeal before it.

4. Heard Mr. Siddharth Luthra, learned senior counsel appearing on behalf of the appellants and Ms. Sonia Mathur, learned senior counsel appearing on behalf of the respondent. The short question before us is that, whether the order of High Court disposing of the criminal appeal in the absence of original record can be held sustainable in the eyes of law.
5. It is not in dispute that the High Court has disposed of the appeal filed by the appellant herein without the record of the trial court, which was lost during the pendency of the appeal before it. The chronology of events also indicates that there is some effort were made by the State to re-construct the record of the trial court but the reconstruction of the record could not be completed. However, learned senior counsel for the respondent-State submits that some of the records are available.
6. Having heard learned senior counsel for the parties and perusing the material placed before us, we are of the view that disposing of the appeal filed by the appellant-accused without the record of the trial court is not sustainable.
7. We accordingly set aside the impugned order passed by the High Court and remand the matter back to the High Court for hearing of the appeals afresh after reconstruction of the record of the trial court.
8. Both the parties are directed to co-operate with the Registry of the High Court of Delhi in the process of reconstruction of trial court's record.
9. We direct the Registrar (Judicial) of the High Court of Delhi to take all necessary steps to complete the process of reconstruction of record of the trial court within a period of six months from today and place the matter before the appropriate Bench for

disposal of the same on merits.

10. Further, keeping in view the facts and circumstances of the Criminal Appeal No.187 of 2019 and particularly the fact that the appellant has already suffered incarceration for a period of approximately 27 months out of a total sentence of 10 years Rigorous Imprisonment, awarded by the trial court which has been affirmed by the High Court, we think it is a fit case to grant bail to the appellant herein. The appellant is accordingly directed to be enlarged on bail on such terms and conditions to be imposed by the trial Court.
11. This Court vide order dated 16.07.2018 has granted bail to the appellant - Savita in Criminal Appeal No.186 of 2019, the same shall continue till the disposal of the appeal by the High Court.
12. We make it clear that we have not expressed any opinion on the merits of the matter and the same shall be decided by the High Court on its own merits.
13. The appeals stand disposed of accordingly. As a sequel to the above, pending interlocutory applications if any also stand disposed of.

.....J.
(N.V.RAMANA)

.....J.
(SANJIV KHANNA)

.....J.
(KRISHNA MURARI)

NEW DELHI;
OCTOBER 14, 2019.

ITEM NO.46

COURT NO.3

SECTION II-C

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).186/2019

SAVITA

Appellant(s)

VERSUS

STATE OF DELHI

Respondent(s)

(IA 92328/2019 GRANT OF BAIL TO BE LISTED IN CRL.A.NO.187/2019)

WITH

CrI.A. No.187/2019 (II-C)

(FOR GRANT OF BAIL ON IA 92328/2019

IA No. 92328/2019 - GRANT OF BAIL)

Date : 14-10-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE KRISHNA MURARI

For Appellant(s)

Mr. Siddharth Luthra, Sr.Adv.

Mr. Sandeep Sudhakar Deshmukh, AOR

For Respondent(s)

Ms. Sonia Mathur, Sr.Adv.

Ms. Seema Bengani, Adv.

Mr. Vikas Bansal, Adv.

Mr. Anas Zaid, Adv.

Mr. B. V. Balaram Das, AOR

UPON hearing the counsel the Court made the following

O R D E R

Keeping in view the facts and circumstances of the Criminal Appeal No.187 of 2019 and particularly the fact that the appellant has already suffered incarceration for a period of approximately 27 months out of a total sentence of 10 years Rigorous Imprisonment, awarded by the trial court which has been affirmed by the High Court, we think it is a fit case to grant bail to the appellant herein. The appellant is accordingly directed to be enlarged on bail on such terms and conditions to be imposed by the trial Court.

The appeals stand disposed of accordingly. As a sequel to the above, pending interlocutory applications, if any, also stand disposed of.

(SATISH KUMAR YADAV)

AR-CUM-PS

(RAJ RANI NEGI)

ASSISTANT REGISTRAR

(Signed order is placed on the file)