

Gulab and Others

Vs

State of Maharashtra

Criminal Appeal No. 247 of 1972

(P. N. Bhagawati, A. C. Gupta, P. N. Shinghal JJ)

08.12.1976

JUDGMENT

BHAGWATI, J.

1. This appeal by special leave is directed against an order passed by the Nagpur Bench of the High Court of Bombay summarily dismissing an appeal preferred by the appellants against an order passed by the Third Extra Additional Sessions Judge, Nagpur convicting them of the offence under Section 302 of the Indian Penal Code and sentencing them to suffer life imprisonment. The appeal was dismissed by the High Court summarily without giving any reasons but it does appear, and that is borne out by the fact that special leave has been granted by this Court that there are issues of fact which require some consideration and it would therefore be desirable that the order of summary dismissal should be set aside and the matter should be sent back to the High Court for the purpose of disposing of the appeal on merits after issuing notice to the other side. We may make it clear that it is not our view that in no case can the High Court summarily reject a criminal appeal without giving reasons, but where some arguable issues of fact or law arise, we think it would be desirable if the High Court gives reasons for summarily dismissing an appeal.

2. We accordingly allow that appeal, set aside the order of summary dismissal passed by the High Court and remand the case to the High Court so that the High Court may admit the appeal, issue notice to the State and after hearing the parties, dispose of the appeal in accordance with law. Since the paper books have already been printed in this Court, sufficient number of copies may be forwarded to the High Court in order to avoid further expense to the parties by way of preparation of the appeal paper book in the High Court. Since the case is an old one and the appellants have been languishing in jail for a number of years, we would suggest that the High Court may dispose of the appeal at a very early date.

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