

Chakareswar Nath Jain

Vs

State of Uttar Pradesh

Criminal Appeals Nos. 35-37 of 1981

(P.N. Bhagwati, Baharul Islam JJ)

09.01.1981

ORDER

1. It appears from paragraph 7 of the petition for special leave which has not been controverted on behalf of the respondent, that the learned Chief Justice of the Allahabad High Court had adjourned the cases in which Mr. S. N. Aggarwal was appearing as advocate for the period May 29, 1978 to July 9, 1978 and, therefore, he was under the impression that his cases would not be taken up for hearing on any day during this period. Unfortunately, due to some oversight the revision application of the appellant in which Mr. S. N. Aggarwal was appearing as advocate was taken up for hearing on May 29, 1978 and despite the absence of Mr. S. N. Aggarwal, it was heard ex parte and dismissed on merits. It is obvious that the revision application should not have been taken up for hearing on May 29, 1978 when the learned Chief Justice had adjourned the cases of Mr. S. N. Aggarwal and had directed that they should not be placed for hearing during the period May 29, 1978 to July 9, 1978. The order disposing of the revision application of the appellant ex parte must, therefore, be set aside and the revision application must be remanded to the High Court for disposal according to law.

2. We accordingly allow the appeal, set aside the order passed by the High Court dismissing the revision application of the appellant and direct that the revision application may be heard by the High Court in accordance with law, after giving opportunity to the appellant of being heard. It would be preferable if the revision application is heard by a learned Judge other than the one who disposed of the revision application.

3. The bail already granted will continue for a period of three weeks within which it will be open to the appellant to apply for bail to the High Court.

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