

Surjit Singh and Others

Vs

State of Punjab

Criminal Appeal No. 454 of 1984

(D. A. Desai, Ranganath Misra JJ)

31.08.1984

ORDER

1. Special leave granted limited to the question whether the High Court without issuing notice and affording an opportunity to the appellant to be heard had jurisdiction to enhance the sentence by imposing a fine of Rs 5,000 in addition to the sentence of imprisonment for life imposed by the trial court.
2. The appellants, Surjit Singh and Harjinder Singh were convicted for committing murder of Bachan Singh under Section 302 IPC and each of them was sentenced to suffer rigorous imprisonment for life by the learned Sessions Judge, Ludhiana. They preferred Criminal Appeal 283 of 1983 to the High Court of Punjab and Haryana at Chandigarh.
3. While dismissing the appeal of the appellants a Division Bench of the High Court observed "that Surjit Singh and Harjinder Singh who had been proved to have committed the murder of Bachan Singh in quite a ruthless manner as is apparent from the number of injuries found on the person of the deceased". The High Court further observed that it is a fit case in which over and above the sentence of imprisonment for life imposed by the trial court a fine of Rs 5,000 in default to suffer further rigorous imprisonment for two years must be imposed on the appellants. The additional sentence imposed by the High Court unquestionably constitutes an enhancement of sentence. The High Court did not issue notice calling upon the appellants to show cause why the sentence imposed upon them be not enhanced before doing so. Rules of natural justice as also the prescribed procedure require that the sentence imposed on the accused cannot be enhanced without giving notice to the appellants and the opportunity to be heard on the proposed action. The record does not show that such a notice and opportunity were given to the appellants and in the absence of notice the appellants had no opportunity to contest the proposed action. Therefore, we allow this appeal limited to the question that the sentence of fine of Rs 5,000 and the default sentence imposed on each appellant by the High Court is quashed and set aside confirming the sentence of imprisonment for life imposed by the trial court. The appeal is allowed to the extent herein indicated.

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