

SUPREME COURT OF INDIA

Ram Naresh Yadav

Vs.

State of Bihar

Crl.A.Nos. 334-35 of 1986

(M. P. Thakkar and S. Natarajan, JJ.)

21.07.1986

ORDER:-

1. Special leave granted. Heard both the sides.

2. It is an admitted position that neither the appellants nor counsel for the appellants in support of the appeal challenging the order of conviction and sentence, were heard. It is no doubt true that if counsel do not appear when criminal appeals are called out it would hamper the working of the court and create a serious problem for the court. And if this happens often the working of the court would become well nigh impossible. We are fully conscious of this dimension of the matter but in criminal matters the convicts must be heard before their matters are decided on merits. The court can dismiss the appeal for non-prosecution and enforce discipline or refer the matter to the Bar Council with this end in view. But the matter can be disposed of on merits only after hearing the appellant or his counsel. The court might as well appoint a counsel at State cost to argue on behalf of the appellants. Since the order of conviction and sentence in the present matter has been confirmed without hearing either the appellants or counsel for the appellants, the order must be set aside and the matter must be sent back to the High Court for passing an appropriate order in accordance with law after hearing the appellants or their counsel and on their failure to engage counsel, after hearing counsel appointed by the Court to argue on their behalf. As the matter is being

remanded to the High Court, no orders can be passed on the bail application. The appellants, if so advised, may approach the High Court for bail.

3. The appeals are partly allowed and disposed of accordingly.

Appeals partly allowed.