

State (Delhi Administration)

Vs

Shiv Kumar

Criminal Appeal No. 210 of 1988

(A.P. Sen, L.M. Sharma JJ)

04.04.1988

ORDER

1. Special leave granted. Arguments heard.

2. We are inclined to the view that the High Court should not have, in the facts and circumstances of the case, dismissed the application made by the appellant for leave to appeal under Section 378(3) of the Code of Criminal Procedure, 1973 in limine. The order of acquittal recorded by the learned Additional Sessions Judge, Delhi leaves much to be desired. The High Court must therefore examine for itself whether the order of acquittal of the respondent can at all be sustained.

3. The appeal accordingly succeeds and is allowed. The order passed by the High Court is set aside. The application made by the appellant under Section 378(3) of the Code of Criminal Procedure is allowed and we direct the High Court to entertain the appeal preferred is allowed and we direct the High Court to entertain the appeal preferred by the appellant against the order of acquittal and decide the same on merits.

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