

**SUPREME COURT OF INDIA**

Devi Singh

Vs.

State of M.P.

CrI.A.Nos.442-443 of 2001

(A.S.Anand CJI., R.C.Lahoti and Brijesh Kumar JJ.)

03.04.2001

**ORDER**

1. Leave granted.

2. The trial Court convicted the appellants for offences under Ss. 302/149 and 148, I. P. C. and sentenced them to suffer imprisonment for life for offence under S. 302/149 and to pay a fine of Rs. 1,000/- each and in default to further undergo 3 months R. I. They were also sentenced to undergo six months R. I. for offence under S. 148, I. P. C. Both the sentences of imprisonment were, however, directed to run concurrently. The appellants filed two separate appeals in the High Court of Madhya Pradesh, Bench at Indore against their conviction and sentence. Those appeals came to be heard by a Division Bench of that Court and the same were dismissed vide order dated 10th May, 2000. The appellants have challenged the order of the Division Bench.

3. We have perused the judgment of the High Court. Apart from narrating prosecution case, the High Court has not dealt with the case properly as the first Court of appeal. The High Court did not even consider, let alone discuss the evidence led during the trial. The observations of the Division Bench to the effect that, "Some of the eye-witnesses have turned hostile while the others supported the prosecution story which is in its turn supported by the documentary and expert evidence and some Panchanamas", which appear to have influenced the High Court to dismiss the appeals are too cryptic and telegraphic. While dismissing the appeals of the appellants the High Court observed in the last paragraph as under :

"In such circumstances on overall consideration we broadly agree with the findings of the trial Court and find no substance in the appeals. The appeals are dismissed. The bail bond of the appellants, who are on bail are cancelled. They are directed to surrender immediately, failing which the authorities are free to apprehend them treating the bail bonds cancelled."

4. To say the least, the entire approach of the High Court is wholly objectionable and erroneous. As a Court of first appeal it was required not only to appreciate the evidence on

record but also to refer to the arguments raised before it and after applying its mind to decide the appeals. A citizen who has been sentenced life imprisonment, has a right to be heard in the first appeal and have his case considered in its proper perspective by the first Court of appeal. We are unable to appreciate as to what the Division Bench meant by recording 'we broadly agree with the findings of the trial Court and find no substance in the appeals'. The impugned order has caused grave prejudice to the appellants and consequently there has been miscarriage of justice. The impugned order, under the circumstances, cannot be sustained.

5. The appeals are accordingly allowed.

6. The impugned order is, hereby, set aside and the appeals are remanded to the High Court for their fresh disposal in accordance with law.

7. We request the High Court to dispose of the appeals, which were filed in the year 1994, expeditiously.

8. The appellants were on bail in the High Court. They are now in judicial custody, having surrendered for filing the appeals in this Court. The High Court shall, on an application, being moved by the appellants for being released on bail, consider and decide their application on their own merits, uninfluenced by the fact that we did not consider their prayer for bail in this Court.

Appeal allowed.