SUPREME COURT OF INDIA

Paul George

Vs.

State

Crl.A.No.93 of 2002

(R.C. Lahoti and Brijesh Kumar JJ.)

23.01.2002

JUDGMENT

Brijesh Kumar, J.

1. Leave granted. Heard learned counsel for the parties.

2. This is an appeal against the order dated September 25, 2001 passed by the Delhi High Court, dismissing Criminal Revision No. 555 of 2001 preferred by the appellant, passing the following order:

> "I have heard the learned counsel for the petitioner. I find no illegality, impropriety or jurisdictional error in the judgment under challenge.
> Dismissed"

3. The appellant has been convicted under Section 279 read with Section 304A IPC and sentenced to a fine of Rs.1000/-, in default simple imprisonment for a period of ten days, on the first count and to simple imprisonment for nine months and a fine of Rs.4,000/-, in default one month's further simple imprisonment, on the latter count. The appeal preferred against conviction and the sentence was dismissed as well as the revision.

4. The learned counsel for the appellant has vehemently urged that the criminal revision has been dismissed by the High Court by means of a non-speaking order. It indicates no reasons to reject the pleas raised by the appellant nor there is any indication of application of mind while deciding the revision.

5. It is submitted that inter alia, one of the pleas raised before the High Court was that the prosecution of the appellant was bad for want of sanction by the competent authority. It is submitted that the appellant has been working in the police department as a Driver. At the time of occurrence he was driving the official vehicle in performance of his official duty. Therefore, he had been acting under colour of duty. In such circumstances, contention is, it was obligatory to obtain sanction before initiation of the prosecution which is otherwise barred under Section 140 of the Delhi Police Act. It provides that in any case of alleged

offence by a police officer or other person done under colour of duty or in excess of any such duty or authority or it appears to have been done in the nature as indicated above, the prosecution shall not be entertained without previous sanction of the Administrator. In this case it is contended that such sanction has not been obtained by the authorities. It is also submitted that there is no eye-witness account alleging rash or negligent driving on the part of the appellant and the courts below erred in fastening the guilt upon the appellant only by application of the maxim "res ipsa loquitur".

6. We are, however not examining the merits of the pleas raised before us. We are only considering the question as to whether the revision should have been disposed of by means of bald and non-speaking order. We feel that whatever be the outcome of the pleas raised by the appellant on merits, the order disposing of the matter must indicate application of mind to the case and some reasons be assigned for negating or accepting such pleas. We find total absence of the same in the order passed by the High Court quoted in the earlier part of this judgment. As a matter of fact, the order says nothing except that no illegality, impropriety or jurisdictional error was found in the judgment of the courts below. Then abruptly order "Dismissed" is passed. It is submitted that probably the revision has been disposed of by the High Court having the provisions of Section 115 C.P.C. in mind since the order observe about "no jurisdictional" error having been committed by the courts below.

7. It is submitted that the language of Section 397 Cr.PC is different and it does not speak of jurisdictional error which it is there all pervading under Section 115 CPC . The submission further is that the scope of the two provisions is different It is narrower under Section 115 C.P.C. Suffice it to observe that question of error in exercise of jurisdiction may arise sometimes in criminal revisions as well. Be that as it may, the submissions made on behalf of the appellant could not be negated without examining them on merit The order impugned however does not indicate any trace of application of mind on the facts or the pleas raised before the Court. We would like to point out that we come across with such orders quite frequently as of now. There is no need to emphasize that the reasons, howsoever brief they may be, are to be indicated in an order disposing of any matter, more so when such orders are subject to appeal or review before the higher forum. In many decisions of this Court, no doubt while dealing with orders passed in exercise of administrative or quasi-judicial power in those cases, it has been observed that so as to indicate application of mind, the orders should contain some reasons which also helps to the appellate or revisional authority to appreciate the merit of the orders passed and the way the decision has been arrived at. * ------ ----------

*1. *S.N. Mukherjee vs. Union of India*[1]

2. Maharashtra State Board of S & H.S. Education versus K.S. Gandhi;

3. *M.J. Shivani Versus State of Karnatak*[2]

8. Learned counsel for the appellant has drawn our attention to a case reported in *State of Andhra Pradesh versus Rajagopala Rao*[3] in which this Court has set aside the order passed

by the High Court in exercise of its revisional jurisdiction on the ground that it amounted to a non-speaking. The case was remanded to the High Court for consideration afresh for its disposal by means of a speaking order. The facts, though in the said case were a bit different since it was an order of acquittal recorded in revision upsetting the finding of two courts below. In the case of Mahrashtra State Board (supra), following observations were made:

> "The recording of reasons is also an assurance that the authority concerned consciously applied its mind to the facts on record. It also aids the appellate or revisional authority or the supervisory jurisdiction of the High Court under Article 226 or the appellate jurisdiction of this Court under Article 136 to see whether the authority concerned acted fairly and justly to mete out justice to the aggrieved person"

9. It is true that it may depend upon the nature of the matter which is being dealt with by the Court and the nature of jurisdiction being exercised as to in what manner the reasons may be recorded e.g. in an order of affirmance detailed reasons or discussion may not be necessary but some brief indication by which application of mind may be traceable to affirm an order would certainly be required. Mere ritual of repeating the words or language used in the provisions, saying that no illegality, impropriety or jurisdictional error is found in the judgment under challenge without even a whisper of the merit of the matter or nature of pleas raised does not meet the requirement of decision of a case judicially.

10. In view of the discussion held above in our view it is a matter in which the High Court may consider the matter afresh and pass an appropriate order in accordance with law. We would like to make it clear that we may not be taken to have expressed any opinion on the merits of the pleas raised by the appellant and the matter shall be decided by the High Court independent of observation, if any, made on merits in this judgment.

11. In the result the appeal is allowed. The impugned order passed by the High Court dated25.9.2001 in Criminal Revision No.555 of 2001 is set aside. The case is remanded to the High Court for its expeditious disposal afresh.

12. It is further ordered that the appellant shall be released on bail, forthwith during pendency and disposal of the Revision before the High Court, on the same terms and conditions on which he had been on bail till the disposal of the revision by the High Court earlier.

[1]*1990 (4) SCC 594*
[2]*AIR 1995 SC 1770*
[3]*(2000) 10 SCC 338*