

SUPREME COURT OF INDIA

Mangat Ram

Vs.

State of Haryana

Crl.No.182 of 2008

(C.K. Thakker and D.K. Jain JJ.)

25.01.2008

JUDGMENT

C.K. Thakker J.

1. Leave granted.

2. On November 30, 2007 when the matter was placed for admission-hearing, this Court passed the following order:

“Delay condoned. Issue notice on the special leave petition as on the application for bail. Notice will state as to why the special leave petition should not be disposed of at this stage”.

3. The learned counsel for the appellant submitted that on May 3rd, 2007, Criminal Appeal No. 592-SB of 1997 was placed on Daily Board of the High Court showing them to be Motion petitions. It was, therefore, submitted that the case was not placed for regular final hearing. It was, however, taken up for final hearing. One Mrs. Harpreet Kaur Dhillon, Advocate was appointed as Amicus Curiae for the accused that was heard and the matter was disposed of. The order which was passed by the High Court reads as under:

“Present: Mrs. Ritu Punj, DAG, Haryana. Mrs. Harpreet Kaur Dhillon, Advocate is appointed as Amicus Curiae. Heard. Dismissed, reasons to follow (emphasis supplied)”

4. From the above order, passed by the High Court in Criminal Appeal No. 592-SB of 1997, it was submitted by the learned counsel that Deputy Advocate General for the State of Haryana was present. For the accused, Mrs. Harpreet Kaur Dhillon, Advocate was appointed as Amicus Curiae on that date. On the same day, the matter was dismissed and the High Court stated Dismissed, reasons to follow.

5. In our opinion, the learned counsel for the appellant is right in submitting that the High Court ought not to have disposed of the appeal without recording reasons. This Court has deprecated the practice of disposing of matters without recording reasons in support of such decision. It has been insisted that when the matter is decided by a Court, reasons must be recorded in support of such decision. It is because the aggrieved party may make grievance in the superior Court that the reasons recorded by the trial Court were non-existent, extraneous, irrelevant, etc. The successful party, on the other hand, may support the reasons recorded by the Court in his favour. Finally, the superior Court may also consider whether reasons recorded by the Court in support of the order passed by it were in consonance with law and whether interference is called for. If the final order is without any reason, several questions may arise and it will be difficult for the parties to the proceedings as well as the superior Court to decide the matter one way or the other. This Court has, therefore, deprecated the practice of pronouncing final order without recording reasons in support of such order.

6. Before more than two decades, in *State of Punjab v. Jagdev Singh Talwandi*¹ the Court said:

“We would like to take this opportunity to point out that serious difficulties arise on account of the practice increasingly adopted by the High Courts, of pronouncing the final order without a reasoned judgment. It is desirable that the final order which the High Court intends to pass should not be announced until a reasoned judgment is ready for pronouncement. Suppose, for example, that a final order without a reasoned judgment is announced by the High Court that a house shall be demolished, or that the custody of a child shall be handed over to one parent as against the order, or that a person accused of a serious charge is acquitted, or that a statute is unconstitutional or, as in the instant case, that a detainee be released from detention. If the object of passing such orders is to ensure speedy compliance with them that object is more often defeated by the aggrieved party filing a special leave petition in this Court against the order passed by the High Court? That places this Court in a predicament because, without the benefit of the reasoning of the High Court, it is difficult for this Court to allow the bare order to be implemented. The result inevitably is that the operation of the order passed by the High Court has to be stayed pending delivery of the reasoned judgment.”

7. Discussing the position of this Court on passing final orders without recording reasons in support of such orders, this Court stated:

“It may be thought that such orders are passed by this Court and therefore there is no reason why the High Courts should not do the same. We would like to point out respectfully that the orders passed by this Court are final and no appeal lies against them. The Supreme Court is the final Court in the hierarchy of our courts. Besides, orders without a reasoned judgment are passed by this Court very rarely, under exceptional circumstances. Orders passed by the High Court are subject to the

appellate jurisdiction of this Court under Article 136 of the Constitution and other provisions of the concerned statutes. We thought it necessary to make these observations in order that a practice which is not very desirable and which achieves no useful purpose may not grow out of its present infancy. (Emphasis supplied)”

8. The principle was reiterated by this Court in *State of Punjab v. Surinder Kumar*² Distinguishing the position of this Court and other Courts, the Court stated:

“On the question of the requirement to assign reasons for an order, a distinction has to be kept in mind between a court whose judgment is not subject to further appeal and other courts. One of the main reasons for disclosing and discussing the grounds in support of a judgment is to enable a higher court to examine the same in case of a challenge. It is, of course, desirable to assign reasons for every order or judgment, but the requirement is not imperative in the case of this Court. It is, therefore, futile to suggest that if this Court has issued an order which apparently seems to be similar to the impugned order, the High Court can also do so.”

9. In *Zahira Habibulla H. Sheikh & Anr. v. State of Gujarat & Ors*³ the High Court, after hearing criminal appeal, directed its dismissal indicating that reasons would follow. When the matter reached this Court, the Court disapproved the approach adopted by the High Court observing that it did not see perceivable reason for the hurry. Referring to Jagdev Singh Talwandi and observing that sometimes even this Court makes such order, the Court stated:

“It may be thought that such orders are passed by this Court and, therefore, there is no reason why the High Courts should not do the same. We would like to point out that the orders passed by this Court are final and no further appeal lies against them. The Supreme Court is the final Court in the hierarchy of our Courts. Orders passed by the High Court are subject to the appellate jurisdiction of this Court under Article 136 of the Constitution and other provisions of the concerned statutes. We thought it necessary to make these observations so that a practice which is not a very desirable one and which achieves no useful purpose may not grow out of and beyond its present in fancied).”

10. In our considered opinion, it would be appropriate and desirable if all Courts including High Courts keep in mind the above principles laid down by this Court and pass final orders only after recording reasons in support of such orders.

11. Learned counsel for the appellant states that before the High Court passed the order challenged in the present appeal, the appellant-accused had throughout remained on bail. He, therefore, submitted that this Court may pass an appropriate order enlarging the appellant on bail on such terms and conditions as this Court deems fit.

12. In our opinion, however, it would not be appropriate to pass such order when we are remitting the matter to the High Court. We may, however, grant liberty to the appellant to make such prayer before the High Court. Let the High Court consider the same on its own merits and pass an appropriate order.

13. The appeal is accordingly allowed with aforesaid observations. The order of the High Court is set aside. The matter is remitted to the High Court to be decided in accordance with law after hearing the parties.

14. Before parting with the matter, we may clarify that we have not entered into merits of the matter and we may not be understood to have expressed any opinion one way or the other on the issues in the case. The High Court will decide the appeal on its own merits.

15. Ordered accordingly.

Cases Referred

¹(9184) 1 SCC 596

²(1992) 1 SCC 489

³(2004) 4 SCC 158