

# SUPREME COURT OF INDIA

State of M.P

Vs.

Makhan Singh

Crl.A.No.201 of 2008

(K.G.Balakrishnan,CJI. Tarun Chatterjee and R.V.Raveendran,JJ.)

28.01.2008

## ORDER

(Arising Out Of Slp(Crl.) No.3453/2005) With Criminal Appeal No.226/2008 (Arising Out of Slp(Crl.) 715/2008.. Crlmp.No.17560/2007)

1. Delay condoned.

2. Leave granted.

3. Heard learned counsel for the appellant and learned counsel for the respondent. Special leave petition (Crl.) No.3453/2005 is filed by the State and other SLP is filed by the accused. The accused was found guilty by the Special Court, of offence punishable under Section 8 read with Section 15(C) of the NDPS Act and sentenced to 10 years R.I. and fine of Rs.1,00,000/-. By the impugned judgment the learned Single Judge of the High Court confirmed the conviction but reduced the sentence to the period already undergone (which was two years and three months). The State has filed the appeal contending that the minimum sentence has been prescribed under law for the offence punishable under Section 8 read with Section 15(C) of the NDPS Act and the learned Single Judge was not justified in reducing the sentence. In the appeal preferred by the accused it is contended that the accused had got serious contentions as regards conviction and the learned Single Judge, without considering them, has merely reduced the sentence to the period already undergone.

4. The impugned judgment does not give any reason for confirming the conviction. Nor had the learned Single Judge given any reason for reducing the minimum sentence for the offence allegedly committed by the accused. Both parties are justified in their grievance. The judgment passed by the learned Single Judge is not sustainable under law and the same is set aside. Consequently, the criminal appeal preferred by the accused is restored to the file of the High Court and we request the High Court to dispose of the same on merits. We are told that the accused has already under custody for a long period. The High Court is, therefore, requested to expedite the proceeding and dispose of the matter within a period of six months.

5. The appeals are disposed of accordingly.