

SUPREME COURT OF INDIA

Bhagmal

Vs.

State of M.P.

Crl.A.No.1675 of 2008

(R.V. Raveendran J.)

20.10.2008

ORDER

1. Leave granted. Heard counsel on both sides.

2. Eleven accused including the appellants herein (who were accused No.6 and 11) were prosecuted for offences under Section 302/149, 324/149 and 323 *IPC*. The trial Court convicted and sentenced them to life imprisonment. All the accused filed an appeal before the High Court. When the appeal was listed for hearing on 6.6.2006, none appeared for the appellants-accused. The High Court heard the learned Deputy Advocate General appearing for the State and disposed of the appeal by confirming the conviction and sentence of the appellants (accused No.6 and 11) under Section 302 *IPC*, and conviction of accused No.3 under Section 323 *IPC*. It acquitted the other accused.

Feeling aggrieved, accused No. 6 and 11 have filed this appeal by special leave.

3. None appeared for any of the accused at the time of hearing before the High Court. In the circumstances, the appellants' conviction has been affirmed without an opportunity to put forth their case in the appeal. The High Court ought to have given an opportunity or made arrangement for their representation.

4. In view of the above, the judgment of the High Court is set aside insofar as appellants (accused No.6 and 11) are concerned and the matter is remitted to the High Court for fresh disposal after giving due opportunity of hearing to accused No.6 and 11, or after appointing an amicus curiae to put forth their case. Appeal is, accordingly, disposed of.