

**SUPREME COURT OF INDIA**

State of M.P.

Vs.

Sugar Singh

Jurisdiction Curative Petition(Crl.)Nos.7-8 of 2009

(K.G. Balakrishnan CJI.S.H. Kapadia,Altamas Kabir and R.V.Raveendran JJ.)

09.03.2010

**ORDER**

1. The Sessions Judge, Shivpuri in the State of Madhya Pradesh tried eight accused persons for the offence under Section 302 read with Section 149 of the I.P.C., Section 326 read with Section 149 of the I.P.C. and other allied offences. All the accused were found guilty of the offences charged against them and for the main offence punishable under Section 302 read with Section 149 of the I.P.C. all were convicted and sentenced to undergo imprisonment for life and for the remaining offences they were sentenced to undergo rigorous imprisonment. The accused persons preferred two appeals before the High Court of Judicature of Madhya Pradesh, namely, Criminal Appeal Nos.242/1991 and 253 of 1991. The Division Bench of the High Court of Madhya Pradesh by its judgment dated 3.1.2003 set aside the conviction and sentence imposed against the accused who were the appellants before it. Aggrieved by the same, the State preferred Criminal Appeal Nos.1362- 2 1363 of 2004. Though there were eight accused persons, only four accused were arrayed as party respondents in the said appeals namely, Sughar, Laxman, Onkar and Ramesh. Other accused, namely, Bhoja, Raghubir, Puran and Balbir were not impleaded as respondents in these Criminal Appeals and consequently notices were not issued to them. This Court, by judgment on 7 th November, 2008 in the aforesaid Criminal Appeals, reversed the acquittal of the accused by the High Court and found them guilty of the offences punishable under Section 304 Part-II read with Section 149 of the I.P.C. and sentenced them to undergo imprisonment for a period of six years. The conviction of the accused for the offences punishable under Section 148 as also Section 326 read with the Section 149 of the I.P.C. and the sentence imposed by the Sessions Court in regard to the said offences was upheld by this Court.

2. We have heard learned counsel for the petitioners. The respondent State, though served with a notice through standing counsel, has not chosen to enter appearance.

3. These Curative Petitions have been filed by accused No.2 (Raghubir) and by accused no.4 and 5 (Sughar Singh and Laxman) on the ground that acquittal of Bhoja, Raghubir, Puran and Balbir have been reversed without affording an opportunity of being heard. We see that

there is serious violation of principles of natural justice as the acquittal of all the accused has been set aside even though only four of them were made respondents before this Court and the others were not heard. We are, therefore, constrained to recall the 3 judgment passed by this Court in Criminal Appeal Nos.1362-1363 of 2004 on 7th November, 2008.

4. Consequently, the accused Sughar Singh, Laxman, Onkar and Ramesh, if they are in custody, are directed to be released forthwith.

5. In the result, these Curative Petitions are disposed of and the Criminal Appeal Nos.1362-1363 of 2004 are restored to the file for being heard afresh with a direction that the other four accused (Bhoja, Raghubir, Puran and Balbir) be impleaded as respondents and all accused be served with fresh notices.