

SUPREME COURT OF INDIA

K.S.Kalinga Rayan @ Kalingaraju

Vs.

State Rep.by the Inspector of Police

Crl.A.No.787/2018

(Kurian Joseph and Mohan M.Shantanagoudar,JJ.,)

18.05.2018

JUDGMENT

Kurian Joseph, J.,

SLP (Crl)No.4325/2018

1. Leave granted.
2. Heard the learned counsel for the appellant and the respondent.
3. In the nature of the order we propose to pass, it is not necessary to go into the factual matrix at this stage. The appellant had filed Criminal Appeal No.805/2011 before the High Court challenging his conviction and sentence as ordered in Special Calendar Case No.1/2011 on the file of Special Court for Prevention of Corruption, Coimbatore. Paragraph 6 of the impugned judgment reads as follows:-

"6. This case has been listed for final disposal for the past two months on various dates but the counsel appearing for the appellant had taken adjournment on one reason or another. As a last chance, case is posted today but there is no representation on behalf of the appellant. The Court has taken up the matter and pass the order on merits, after perusing the appeal papers and hearing the counsel for the respondent."
4. The main contention of the learned counsel is that though the High Court discussed the entire evidence of the prosecution, there is no discussion on the defence evidence. The appellant cannot blame the High Court, since he failed to appear before the High Court when the matter was taken up for hearing.
5. However, having regard to the entire facts and circumstances of the case, we are of the view that it is only in the interest of justice that the appellant is given liberty to argue his case before the High Court, subject to imposition of costs.

6. Accordingly, the impugned judgment of the High Court is set aside and the appeal is allowed.

7. Criminal Appeal No.805/2011 on the file of the High Court of Madras will stand revived for hearing afresh. The appellant will appear before the High Court on 12.06.2018 along with his counsel. We request the High Court to hear the matter on that day and dispose of the same as expeditiously as possible.

8. The appellant is directed to pay costs to the tune of Rs.25,000/- (Rupees Twenty Five Thousand only), to the Deaf-and-Dumb School, Thanjavur, run by the Government, which can be utilized for better amenities to the children.

9. We make it clear that since we have set aside the judgment, the interim order of suspension granted by the High Court at the time of admission of the criminal appeal will stand revived and would continue to operate till the appeal is disposed of by the High Court.

10. Pending applications, if any, shall stand disposed of.