

SUPREME COURT OF INDIA

Kuldeep Mansukhani

Vs.

High Court of Delhi

Crl.A.No.920/2006

(Kurian Joseph and Sanjay Kishan Kaul, JJ.)

01.08.2018

JUDGMENT

Kurian Joseph, J.,

1. This appeal is at the instance of the respondent in Criminal Contempt Reference No.1/2006 on the file of the High Court of Delhi. The contempt arose out of a reference made by the Metropolitan Magistrate, Patiala House Courts, Delhi through the District and Sessions Judge, Delhi.

2. We are informed that no inquiry whatsoever has been conducted either at the time of making of a report to the District Judge or at the time of the District Judge forwarding the reference to the High Mahalakshmi Pavani, learned senior counsel who was appointed as an amicus curie, has brought to our notice that the Metropolitan Magistrate concerned resigned from service shortly after the alleged incident.

4. When the matter was posted before the High Court, the appellant was asked by the Court as to whether he wanted to submit anything in writing and, accordingly, he filed a detailed affidavit. We do not propose to go into the narration of facts or the defence taken by the appellant, since, in our view, it is not necessary to go into the same.

5. Having regard to the defence taken by the appellant, the High Court ought to have conducted an inquiry. That having not been done and the punishment having been imposed solely on the basis of the reference made by the District Judge and the affidavit in response, we are of the view that the principles of natural justice have not been complied with fully. All that apart, we also find that having been asked as to whether he had anything to say on the sentence, the appellant had tendered unconditional apology

6. In view of the above circumstances, the apology tendered by the appellant is taken on record, we set aside the conviction and sentence imposed upon the appellant and the appeal is allowed.

7. Pending applications, if any, shall stand disposed of.
8. The fee of the Amicus Curiae be paid, as per rules.