

Naresh Katoch vs. State of HP a/w connected matters.

Cr. Appeal Nos. 43, 48, 50, 51 and 52 of 2017

Cr. Appeal No. 43 of 2017

24.2.2026 Present: Mr. Vikrant Thakur, Advocate, for the appellant.
Mr. Lokender Kutlehria, Additional Advocate General, for the respondent-State.

Cr. Appeal Nos. 50, 51 and 52 of 2017

Mr. Ajay Kochhar, Senior Advocate, with Ms. Swati Sharma, Advocate, for the appellants (in all the appeals).

Mr. Lokender Kutlehria, Additional Advocate General, for the respondent(s)-State, in all the appeals.

Cr. Appeal No. 48 of 2017

Mr. Nitin Thakur, Advocate, for the appellant.

Mr. Lokender Kutlehria, Additional Advocate General, for the respondent-State.

Cr. Appeal No. 48 of 2017

Mr. Nitin Thakur, learned counsel for the appellant submitted that learned Senior Counsel will be available in the month of March and prayed for an adjournment, however, it was expressly made clear on the last date of hearing that in case of failure to argue the matter today, the same shall be assigned for appointment of legal-aid counsel.

It was laid down by Hon'ble Supreme Court in *K. Muruganandam v. State of T.N.*, (2021) 20 SCC 642 : 2021 SCC OnLine SC 690 at page 644 that in case of non representation or default of the Advocate representing the accused, the Court is bound to appoint an Amicus Curiae. It was observed:-

6. It is well settled that if the accused does not appear through counsel appointed by him/her, the Court is obliged to proceed with the hearing of the case only after appointing an Amicus Curiae, but cannot dismiss the appeal merely because of non-representation or default of the advocate for the accused (see *Kabira v. State of U.P.*, 1981 Supp SCC 76: 1982 SCC (Cri) 144 and *Mohd. Sukur Ali v. State of Assam*, (2011) 4 SCC 729: (2011) 2 SCC (Cri) 481).

It was held in *Purushothaman v. State of T.N.*, 2023 SCC OnLine SC 1410 that when the Advocate appearing for the appellant seeks adjournment on untenable or unreasonable ground, the Court has a right to refuse the prayer for adjournment and to appoint a Legal-Aid Counsel. It was observed:-

5. In a given case, if the advocate appearing for the appellant-accused seeks adjournment on untenable and unreasonable grounds, the Appellate Court is well within its power to refuse the prayer for adjournment. In such a case, one of the courses suggested by a decision of this Court in the case of *Bani Singh v. State of U.P.* (1996) 4 SCC 720 can always be adopted by the High Court. The High Court has a discretion to appoint an advocate to espouse the cause of the appellant when the

advocate appointed by the appellant refuses to argue the appeal on unreasonable grounds. Though the High Court has an option of considering the merits of the appeal and deciding the same on merits, the High Court could always adopt the first course of appointing an advocate to espouse the cause of the appellant.

Therefore, in view of the binding precedent, Secretary H.P. High Court Legal Services Committee is requested to appoint a Legal Aid Counsel on behalf of the appellant in Cr. Appeal No. 48 of 2017 to argue the matter.

Cr. Appeal Nos. 43, 48, 50, 51 and 52 of 2017

List the matters after two weeks.

(Rakesh Kainthla)
Judge

24th February, 2026
(Chander)