

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1040 OF 2003

SATPAL & ORS. ... APPELLANTS

VERSUS

STATE OF PUNJAB ... RESPONDENT

ORDER

The present appeal is against the judgment of the High Court convicting the appellants for the offences under Section 306 read with 34 of the Indian Penal Code. By the instant impugned judgment the High Court has reduced the sentences of the accused to three years in the case of appellant Nos.2 and 3 i.e. Raj Kumar and Krishna Devi whereas in the case of appellant No.1, Satpal, the sentence was reduced to four years. We need not go into the facts as also the judgment further for the simple reason that it is apparent that when the matter was heard before the High Court nobody was present on behalf of the appellants. Thus, the appellants were not heard before the High Court and the appeal was decided in their absence even without appointing any amicus curiae.

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2. In the first ground raised in this appeal the appellants have complained that there was no notice to them when the appeal was admitted in 1987. One Shri Ajmer Singh, Senior Advocate appearing on their behalf had already expired, no other counsel was present on their behalf and the appeal was listed for hearing in 2002. The appellants have specifically complained of grave injustice caused to them since the appeal came to be decided without hearing their counsel. In the circumstances of the case, we are convinced that the correct course for the High Court was, when it found that there was nobody present on behalf of the appellants, to appoint at least an amicus curiae on their behalf and then proceed with the hearing of the matter. That, not having been done we would set aside the impugned judgment and remand back the matter for the fresh hearing.

3. But before we part with this appeal we must also note that even before this Court learned counsel appearing for the appellants is absent. This matter was specifically fixed in the Vacation Bench and we did expect some assistance from the appellants' counsel which is not available to us. It is only with the help of the learned counsel appearing for the State that we have proceeded with the hearing of the appeal. Since we are passing an order in favour of the appellants it

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is not felt necessary to hear the appellants in the matter. With these observations we send the appeal back for fresh decision on merits to the High Court. The High Court is requested to dispose of the matter within six months from the receipt of the records and receipt of the order of this Court. We are fixing the time limit particularly considering the age of the appellant Nos.2 and 3.

4. The appeal is disposed of accordingly.

.....J.
(V.S. SIRPURKAR)

.....J.
(R.M. LODHA)

NEW DELHI,
MAY 22, 2009.

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ITEM NO.104 Court No.3 SECTION IIA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 1040 OF 2003

SATPAL & ORS. Appellant (s)

VERSUS

STATE OF PUNJAB Respondent(s)

(With appln(s) for suspension of execution of sentence and grant of bail and office report)

Date: 22/05/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.S. SIRPURKAR
HON'BLE MR. JUSTICE R.M. LODHA
(VACATION BENCH)

For Appellant(s)

