

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No. 3515/2000

(From the judgement and order dated 21/02/2000 in CRLA. 921/97
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

AJAY Petitioner (s)

VERSUS

STATE OF HARYANA Respondent (s)

(With Appln(s). for bail)
(With Office Report)

Date : 15/01/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS
HON'BLE MR. JUSTICE R.P. SETHI

For Petitioner (s) Mr. Sushil Kumar, Sr.Adv.
Mr. Sanjay Jain,adv.

For Respondent (s) Mr. Aarohi Bhalla,adv.
Mr. Mahabir Singh,Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.
Appeal is disposed of.

.SP1
(Suman Wadhwa) (H.K.Bhatia)
PA to Addl.Regr. Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 79 OF 2001 @@
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(Arising out of SLP(Crl.)No.3515/2000)

Ajay ... Appellant

vs.

State of Haryana ... Respondent

ORDER@@
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Leave granted.

Appellant was one of the persons convicted by a criminal court for offences under Sec.399 and 402 of the Indian Penal Code. He was sentenced to undergo rigorous imprisonment for seven years for the first count and five years on the second count. He filed an appeal before the High Court. That appeal was disposed of by reducing the sentence on the first count to imprisonment for five years while retaining the sentence on the second count as it is.

The main grievance of the appellant is that his advocate was not heard by the High Court at all. That fact is not disputed and the High Court has also noted that none appeared for the appellant when it was taken up. The two advocates who were engaged by the appellant

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were requested by us to convince us, in the light of the stand adopted by the appellant before us, as to why they could not be present. They filed separate affidavits and they came to this court to explain why they were not present. We are satisfied from the explanation that their absence was not on account of any latches on their part. They said that the appeal was not, to their knowledge, listed for hearing on the particular date. We accept their version.

The appeal filed by the appellant before the High Court therefore requires to be heard and disposed of afresh as one appeal against the conviction and sentence of imprisonment is sine qua non for deprivation@@

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of the liberty of a citizen. As the advocates failed to notice the date of hearing one more chance to argue the appeal can be afforded to the appellants. We, therefore, set aside the impugned judgment in so far as it concerns this appellant alone, and send the appeal back to the High Court for disposal afresh after affording a reasonable opportunity to the appellant or his counsel in the matter. During the pendency of the appeal before the High Court the appellant will remain on bail as the bail bond executed by him and remained in force when the appeal was pending will revive.

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This appeal is disposed of accordingly.

.SP1

.....J.
(K.T. Thomas)

New Delhi;
January 15, 2001.

.....J.
(R.P.Sethi)