

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1153 OF 2010
(Arising out of S.L.P.(Criminal) No.5138 of 2009)

Sheru @ Narendra -- Appellant

VERSUS

State of Madhya Pradesh -- Respondent

O R D E R

1. Leave granted.

2. This appeal, by special leave, is directed against the final judgment and order dated 8th February, 2005 passed by the High Court of Madhya Pradesh at Jabalpur in Criminal Appeal No.34 of 1997. By the impugned judgment, the High Court has affirmed the conviction of the appellant for an offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860.

3. For the view we propose to take in the case, we deem it unnecessary to state the facts giving rise to the present appeal.

4. It is evident from the impugned judgment that at the time of final hearing of the appeal, the appellant was not represented by any counsel. The High Court proceeded to hear the appeal, with

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the assistance of the public prosecutor glanced through the evidence on record and upheld the conviction and the sentence handed out to the appellant.

5. It has been the consistent view of this Court that if the sentence imposed by the judgment impugned in the appeal is of a substantial range, like in the present case, and the appellant remains unrepresented, the Court should appoint some Advocate as amicus curiae to assist it on behalf of the appellant before

to file rejoinder affidavit and office report)

Date: 05/07/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. R.P. Gupta, Sr. Adv.
Mr. Parmanand Gaur, Adv.

For Respondent(s) Mr. Siddhartha Dave, Adv.
Mr. Vibha Datta Makhija, Adv.
Mr. Jemtiben Ao., Adv.

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

Leave granted.

The appeal is allowed; the impugned judgment is set aside and the matter is remitted back to the High Court for a fresh hearing on merits. The High Court will either appoint an amicus curiae or direct the Legal Aid Committee to nominate an experienced Advocate to represent the appellant. If the appellant has not yet surrendered in terms of the impugned order, the High Court may secure his presence but may not send him to judicial custody till the appeal is finally disposed of.

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Since the incident dates back to 3rd December, 1994, the High Court is requested to dispose of the appeal as expeditiously as practicable.

[Charanjeet Kaur]
Court Master

[N.B. Dhyani]
Court Master

[Signed order is placed on the file]