

A

SUKHDEV SINGH  
v.  
STATE OF HARYANA

JUNE 1, 2007

B

[DR. ARIJIT PASAYAT AND D.K. JAIN, JJ.]

*Code of Criminal Procedure, 1973*

C

*Appeal against conviction—Disposed of by High Court ex-parte against accused—Held: In the event of non-appearance of counsel for accused, the High Court should not have taken up the matter ex-parte. Matter remitted to High Court for fresh consideration on merits.*

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The accused, who was convicted u/s 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to imprisonment for 10 years by the trial court, filed the instant appeal against the order of the High Court disposing of his appeal *ex-parte*.

E

It was contended for the appellant that the lawyer who was appearing for him in the High Court had withdrawn from the case without any intimation to the appellant; and no notice was received by the appellant regarding non-appearance.

Disposing of the appeals the Court

F

**HELD:** Since the High itself was not sure whether notice was served or not, it should not have taken up the matter *ex parte*. The matter is remitted to the High Court for fresh consideration on merits expeditiously.

[Para-5] [915-H]

G

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1049 of 2005.

From the Final Judgment and Order dated 07.07.2004 of the High Court of Punjab and Haryana at Chandigarh in Criminal Appeal No. 58-SB of 1992.

H

WITH

CrI. M.P. No. 4562 of 2007.

Ujjal Singh, J.P. Singh and A.S. Bahar (for R.C. Kaushik) for the Appellant.

Roopansh Purohit (for T.V. George) for the Respondent.

The Judgment of the Court was delivered by

**DR. ARIJIT PASAYAT, J.** 1. Challenge in this appeal is to the judgment of a learned Single Judge of the Punjab and Haryana High Court dismissing the appeal filed by the appellant. The appeal was filed by the appellant against the judgment of the learned Sessions Judge, Sirsa convicting him for offence punishable under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short the 'Act') and sentencing him to undergo imprisonment for ten years and to pay a fine of Rs.1,00,000/- with default stipulation.

2. Appeal before the High Court was disposed of in the absence of learned counsel for the appellant. The order itself noticed that with the assistance of learned counsel for the State, learned Single Judge perused the records and delivered the judgment.

3. From the order of the High Court it appears that notice was issued to the appellant for engaging another counsel as the High Court noticed that he was not represented. It is noted in the order that there was no evidence to show that the notice was served on the appellant or not, yet the High Court disposed of the matter *ex parte*.

4. In support of the appeal, learned counsel for the appellant submitted that no notice was received by the appellant regarding non-appearance of his lawyer. In any event the lawyer who was earlier appearing had withdrawn from the case without any intimation to the appellant.

5. Though several other points are raised in support of the appeal, it is not necessary to refer to them. Since the High Court itself was not sure whether notice was served or not, it should not have taken up the matter *ex parte*. The matter is remitted to the High Court for fresh consideration on merits expeditiously. As the matter is pending since long before the High

**A** Court. let the parties appear before the High Court without further notice on 16th July, 2007. The Hon'ble Chief Justice is requested to list the matter before an appropriate Bench.

6. The appeal is disposed of accordingly.

**B** 7. In view of this order, no order is necessary to be passed in Crl.M.P.No.4562 of 2007.

R.P.

Appeal disposed of.