

NATHU @ PARAS RAM

A

v.

STATE OF RAJASTHAN

OCTOBER 31, 2006

[S.B. SINHA AND DALVEER BHANDARI, JJ.]

B

Supreme Court Rules, 1964:

Order 21, Rule 8—Jail petitions—Prompt listing of in Court—Summoning of records from courts below/Tribunal—Held, it does not appear to be reasonable that in each and every case when the matter is being placed before the Registry, the records would be sent for and when they are in vernacular language, the same would be translated into English—When the special leave petitions are forwarded through the officer-in-charge of the jail along with certified copy of the judgment, the same should urgently be placed before the Court—The first listing of the case should not be delayed—At best an office note be placed that the translated copy of the records has not been sent; and if the records are directed to be called for, the same are required to be translated—It is only in cases where records are required to be called for, the same should be done; as otherwise it may await the order of the Court—Registry is directed to act in terms of this order in future.

C

D

E

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1004 of 2006.

From the Judgment and Order dated 5.10.2001 of the High Court of Judicature for Rajasthan at Jodhpur in S.B. Criminal Appeal No. 270/1999 and S.B. Criminal Jail Appeal No. 244/1999.

F

Shankar Divate for the Appellant.

The Order of the Court was delivered by

G

O R D E R

Perused the report of the Registrar (Judicial) dated 26.09.2006. The

905

H

A special leave petition was filed on 10.06.2004, which was sent by one Nathu @ Parasram, who is in custody. He had sent a copy of the judgment passed by the High Court. The record was, however, put up on 04.09.2006.

It is in the aforementioned premise that an inquiry was directed to be conducted. The Registrar (Judicial), in his report, *inter alia*, stated that the office had sent for the records of the courts below which caused delay.

Our attention in this behalf has been drawn to Order XXI Rule 8 of the Supreme Court Rules, 1966, relevant portion whereof is in the following terms:

“8. (1) If the petitioner is in jail and is not represented by an advocate on record he may present his petition for special leave to appeal together with the certified copy of the Judgment and any written argument which he may desire to advance to the officer-in-charge of the jail, who shall forthwith forward the same to the Registrar of this Court. Upon receipt of the said petition, the Registrar of the Court shall, *whenever necessary* call, from the proper officer of the Court or the Tribunal appealed from, the relevant documents for determination of the petition for special leave to appeal.

(2) As soon as all necessary documents are available the Registrar shall, assign an Advocate from a panel of *amicus curiae* and thereafter place the petition and complete documents for hearing before the Court. The fee of the advocate so engaged shall be Rs.250/- upto the admission stage and a lump sum not exceeding Rs.500/- for the hearing of the appeal arising therefrom, as may be fixed by the Bench hearing the appeal, and in an appropriate case, the Bench hearing the case may for the reasons to be recorded in writing, sanction payment of a lump sum not exceeding Rs.750/-.”

Rules framed by this Court must be read in consonance with the fundamental rights of the prisoners. A prisoner when sends a petition or an appeal from jail, the same requires immediate attention of this Court. The Court while entertaining a special leave petition having regard to the facts and circumstances of the case, may suspend his sentence or allow his prayer for bail. Each petition is accompanied by a copy of the judgment of the High Court, which is supplied free of charge to the prisoners. It does not, therefore, appear to be reasonable that in each and every case when the matter is being placed before the Registry, the records would be sent for and when they are in vernacular language, the same would be translated into English.

The Rule no doubt permits the Registrar to call for documents, but the same is required to be done only when the same is found to be necessary and not otherwise. Records of the case should not, thus, be called for in a mechanical manner. A

We, therefore, direct that when the special leave petitions are forwarded through the officer-in-charge of the jail along with certified copy of the judgment, the same should urgently be placed before the Court. The first listing of the case should not be delayed. At best an office note be placed that the translated copy of the records has not been sent; and if the records are directed to be called for, the same are required to be translated. It is only in cases where records are required to be called for, the same should be done; as otherwise it may await the order of the Court. We direct the Registry to act in terms of this order in future. B C

R.P.

Appeal pending for hearing.