

A MANGAT RAM
v.
STATE OF HARYANA
(Criminal Appeal No. 182 of 2008)
JANUARY 25, 2008
B (C.K. THAKKER AND D.K. JAIN, JJ.)

C *Order of High Court – Dismissing criminal appeal observing “reasons to follow” – HELD: The High Court ought not to have disposed of appeal without recording reasons – Supreme Court has deprecated practice of disposing of matters and pronouncing final orders without recording reasons in support of such decision – It has been insisted that when matter is decided by a Court, reasons must be recorded*
D *in support of such decision – It would be appropriate and desirable if all courts including High Courts keep in mind the principles laid down by Supreme Court and pass final orders only after recording reasons in support of such orders – Appellant would be at liberty to make prayer for bail before High Court – Let High Court consider the same on its own merits and pass an appropriate order – Bail – Administration of justice – Practice and Procedure.*
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F *Zahira Habibulla H. Sheikh & Anr. Vs. State of Gujarat &Ors. [2004] 4 SCC 158; State of Punjab vs. Jagdev Singh Talwandi [1984] 1 SCC 596; State of Punjab vs. Surinder Kumar [1992] 1 SCC 489 – relied on.*

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 182 of 2008.

G From the final Judgment and Order dated 3.5.2007 of the High Court of Punjab and Haryana at Chandigarh in Criminal Appeal No. 592-SB of 1997.

Satinder S. Gulati and Kamaldeep Narang for the Appellant.

Rajeev Gaur "Nasem" and T.V. George for the Respondent. A

The following Order of the Court was delivered

1. Leave granted.

2. On November 30, 2007 when the matter was placed for admission-hearing, this Court passed the following order: B

"Delay condoned.

Issue notice on the special leave petition as on the application for bail. Notice will state as to why the special leave petition should not be disposed of at this stage". C

3. The learned counsel for the appellant submitted that on May 3rd, 2007, Criminal Appeal No. 592-SB of 1997 was placed on Daily Board of the High Court showing them to be 'Motion petitions'. It was, therefore, submitted that the case was not placed for regular final hearing. It was, however, taken up for final hearing. One Mrs. Harpreet Kaur Dhillon, Advocate was appointed as Amicus Curiae for the accused who was heard and the matter was disposed of. The order which was passed by the High Court reads as under: D

"Present : Mrs. Ritu Punj, DAG, Haryana. E

Mrs. Harpreet Kaur Dhillon, Advocate is appointed as Amicus Curiae.

Heard. F

Dismissed, reasons to follow".

(emphasis supplied)

4. From the above order, passed by the High Court in Criminal Appeal No. 592-SB of 1997, it was submitted by the learned counsel that Deputy Advocate General for the State of Haryana was present. For the accused, Mrs. Harpreet Kaur Dhillon, Advocate was appointed as Amicus Curiae on that date. On the same day, the matter was dismissed and the High Court stated "Dismissed, reasons to follow". G

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A 5. In our opinion, the learned counsel for the appellant is
right in submitting that the High Court ought not to have disposed
of the appeal without recording reasons. This Court has
deprecatd the practice of disposing of matters without
recording reasons in support of such decision. It has been
B insisted that when the matter is decided by a Court, reasons
must be recorded in support of such decision. It is because the
aggrieved party may make grievance in the superior Court that
the reasons recorded by the trial Court were non-existent,
extraneous, irrelevant, etc. The successful party, on the other
C hand, may support the reasons recorded by the Court in his
favour. Finally, the superior Court may also consider whether
reasons recorded by the Court in support of the order passed
by it were in consonance with law and whether interference is
called for. If the final order is without any reason, several questions
D may arise and it will be difficult for the parties to the proceedings
as well as the superior Court to decide the matter one way or
the other. This Court has, therefore, deprecated the practice of
pronouncing final order without recording reasons in support of
such order.

E 6. Before more than two decades, in *State of Punjab v.*
Jagdev Singh Talwandi, (9184) 1 SCC 596, the Court said:

“We would like to take this opportunity to point out that
serious difficulties arise on account of the practice
increasingly adopted by the High Courts, of pronouncing
F the final order without a reasoned judgment. It is desirable
that the final order which the High Court intends to pass
should not be announced until a reasoned judgment is
ready for pronouncement. Suppose, for example, that a
final order without a reasoned judgment is announced by
G the High Court that a house shall be demolished, or that
the custody of a child shall be handed over to one parent
as against the order, or that a person accused of a serious
charge is acquitted, or that a statute is unconstitutional or,
as in the instant case, that a detenu be released from
H detention. If the object of passing such orders is to ensure

speedy compliance with them, that object is more often defeated by the aggrieved party filing a special leave petition in this Court against the order passed by the High Court. That places this Court in a predicament because, without the benefit of the reasoning of the High Court, it is difficult for this Court to allow the bare order to be implemented. The result inevitably is that the operation of the order passed by the High Court has to be stayed pending delivery of the reasoned judgment".

7. Discussing the position of this Court on passing final orders without recording reasons in support of such orders, this Court stated:

*"It may be thought that such orders are passed by this Court and therefore there is no reason why the High Courts should not do the same. We would like to point out respectfully that the orders passed by this Court are final and no appeal lies against them. The Supreme Court is the final Court in the hierarchy of our courts. Besides, orders without a reasoned judgment are passed by this Court very rarely, under exceptional circumstances. Orders passed by the High Court are subject to the appellate jurisdiction of this Court under Article 136 of the Constitution and other provisions of the concerned statutes. **We thought it necessary to make these observations in order that a practice which is not very desirable and which achieves no useful purpose may not grow out of its present infancy**".*

(emphasis supplied)

8. The principle was reiterated by this Court in *State of Punjab v. Surinder Kumar*, (1992) 1 SCC 489. Distinguishing the position of this Court and other Courts, the Court stated:

"On the question of the requirement to assign reasons for an order, a distinction has to be kept in mind between a court whose judgment is not subject to further appeal

A *and other courts. One of the main reasons for disclosing*
and discussing the grounds in support of a judgment is
to enable a higher court to examine the same in case of
a challenge. It is, of course, desirable to assign reasons
B *for every order or judgment, but the requirement is not*
imperative in the case of this Court. It is, therefore, futile
to suggest that if this Court has issued an order which
apparently seems to be similar to the impugned order,
the High Court can also do so".

(emphasis supplied)

C 9. In *Zahira Habibulla H. Sheikh & Anr. v. State of Gujarat*
& Ors., (2004) 4 SCC 158, the High Court, after hearing criminal
appeal, directed its dismissal indicating that "reasons would
follow". When the matter reached this Court, the Court
disapproved the approach adopted by the High Court observing
D that it did not see "perceivable reason for the hurry". Referring
to *Jagdev Singh Talwandi* and observing that sometimes even
this Court makes such order, the Court stated:

E *"It may be thought that such orders are passed by this*
Court and, therefore, there is no reason why the High
Courts should not do the same. We would like to point
out that the orders passed by this Court are final and no
further appeal lies against them. The Supreme Court is
the final Court in the hierarchy of our Courts. Orders
F *passed by the High Court are subject to the appellate*
jurisdiction of this Court under Article 136 of the
Constitution and other provisions of the concerned
statutes. We thought it necessary to make these
observations so that a practice which is not a very
G *desirable one and which achieves no useful purpose*
may not grow out of and beyond its present infancy".

(emphasis supplied)

H 10. In our considered opinion, it would be appropriate and
desirable if all Courts including High Courts keep in mind the
above principles laid down by this Court and pass final orders

only after recording reasons in support of such orders.

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11. Learned counsel for the appellant states that before the High Court passed the order challenged in the present appeal, the appellant-accused had throughout remained on bail. He, therefore, submitted that this Court may pass an appropriate order enlarging the appellant on bail on such terms and conditions as this Court deems fit.

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12. In our opinion, however, it would not be appropriate to pass such order when we are remitting the matter to the High Court. We may, however, grant liberty to the appellant to make such prayer before the High Court. Let the High Court consider the same on its own merits and pass an appropriate order.

C

13. The appeal is accordingly allowed with aforesaid observations. The order of the High Court is set aside. The matter is remitted to the High Court to be decided in accordance with law after hearing the parties.

D

14. Before parting with the matter, we may clarify that we have not entered into merits of the matter and we may not be understood to have expressed any opinion one way or the other on the issues in the case. The High Court will decide the appeal on its own merits.

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15. Ordered accordingly.

R.P.

Appeal allowed.

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