

A STATE OF RAJASTHAN
v.
ROHITAS & ORS.
(Criminal Appeal No. 361 of 2008)

B FEBRUARY 22, 2008
(DR. ARIJIT PASAYAT AND P. SATHASIVAM, JJ.)

C *Code of Criminal Procedure, 1973 – s.378(1) – Acquittal u/ss.498A and 304B IPC – Application seeking leave to file appeal rejected – On appeal, held: Order refusing to grant leave to file appeal being unreasoned, is not sustainable – Matter remitted to High Court – Penal Code, 1860 – ss.498A and 304B.*

D *Judgment – Recording of reasons in – Requirement of – Discussed.*

E *Precedent – Held: Judicial discipline of abiding by the declarations of law by Supreme Court, cannot be forsaken by any authority or Court on any pretext – Constitution of India, 1950 – Article 141 – Judicial Discipline.*

Respondents were prosecuted u/s. 498A and 304B IPC. Trial Court acquitted them. Appellant-State filed an application u/s.378(1) Cr.P.C. seeking leave to appeal. High Court dismissed the same. Hence the present appeal.

F **Allowing the appeal and remitting the matter to High Court, the Court**

G **HELD: 1.1 The impugned order is practicably unreasoned. The High Court has not given any reasons for refusing to grant leave to file appeal against acquittal, and seems to have been completely oblivious to the fact that by such refusal, a close scrutiny of the order of acquittal, by the appellate forum, as been lost once and for all. The manner in which appeal against acquittal has**

been dealt with by the High Court leaves much to be desired. [Paras 5 and 6] [277-E, F, G]

1.2 Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief in its order, indicative of an application of its mind; all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the High Court order not sustainable. Reasons is the heartbeat of every conclusion, and without the same it becomes lifeless. [Paras 6 and 7] [277-G, H; 278-A, C]

State of U.P. v. Battan and Ors. 2001 (10) SCC 607; *State of Maharashtra v. Vithal Rao Pritirao Chawan* AIR 1982 SC 1215; *Jawahar Lal Singh v. Naresh Singh and Ors.* 1987 (2) SCC 222; *Raj Kishore Jha v. State of Bihar and Ors.* 2003 (7) Supreme 152 – relied on.

1.3 Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the “inscrutable face of the sphinx”, it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made; in other words, a speaking out. The “inscrutable face of a sphinx” is ordinarily incongruous with a judicial or quasi-judicial performance. [Para 8] [278-E, F, G, H; 279-A]

A *State of Orissa v. Dhaniram Luhar* 2004(5) SCC 568 –
relied on.

Breen v. Amalgamated Engineering Union 1971 (1) All
E.R. 1148; *Alexander Machinery (Dudley) Ltd. v. Crabtree*
1974 ICR 120 (NIRC) – referred to.

B 2. The requirement of indicating reasons in such
cases has been judicially recognized as imperative.
Judicial discipline to abide by declaration of law by this
Court cannot be forsaken under any pretext by any
C authority or Court, be it even the highest Court in a State,
oblivious to Article 141 of the Constitution of India, 1950.
[Para 6] [278-B, C]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
No. 361 of 2008.

D From the final Judgment and Order dated 31.07.2006 of
the High Court of Rajasthan at Jaipur Bench, Jaipur in S.B.
Criminal Leave to Appeal No. 193 of 2006.

Aruneshwar Gupta for the Appellant.

E The Judgment of the Court was delivered by

Dr. ARIJIT PASAYAT, J. 1. Leave granted.

F 2. Challenge in this appeal is to the order passed by a
learned Single Judge of the Rajasthan High Court, Jaipur Bench,
dismissing the application filed for grant of leave to prefer an
appeal in terms of Section 378 (1) of the Code of Criminal
Procedure, 1973 (in short the 'Cr.P.C.').

3. Background facts in a nutshell are as follows:

G Respondent faced trial for alleged commission of offences
punishable under Sections 498 (A) and 304 (B) of the Indian
Penal Code, 1860 (in short the 'IPC'). It was the case of the
prosecution that because of the torture meted out for bringing
less dowry, she was murdered. Her dead body was found in the
H well of the accused persons. It was the case of the complainant

that after killing her for dowry, she was thrown into the well. Charges were framed and the accused persons faced trial.

The trial court directed acquittal. Thereafter, as noted above, the appellant-State filed an application for grant of leave, which was rejected. Stand of the appellant was that the summary dismissal is not sustainable in law. There is no appearance on behalf of the respondent-accused.

4. Section 378 of the Code deals with the power of the High Court to grant leave in case of acquittal. Sub-sections (1) and (3) of Section 378 read as follows:

"378(1) Save as otherwise provided in sub-section (2) and subject to the provisions of sub-section (3) and (5), the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court or an order of acquittal passed by the Court of Session in revision.

(3) No appeal under sub-section (1) or sub-section (2) shall be entertained except with the leave of the High Court".

5. To say the least the order is practicably unreasoned.

6. The effect of the admission of the accused in the background of testimony of official witnesses and the documents exhibited needed adjudication in appeal. The High Court has not given any reasons for refusing to grant leave to file appeal against acquittal, and seems to have been completely oblivious to the fact that by such refusal, a close scrutiny of the order of acquittal, by the appellate forum, has been lost once and for all. The manner in which appeal against acquittal has been dealt with by the High Court leaves much to be desired. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief in its order, indicative of an application of its mind; all the more when its order is amenable to further avenue of challenge.

- A The absence of reasons has rendered the High Court order not sustainable. Similar view was expressed in *State of U.P. v. Battan and Ors* (2001 (10) SCC 607). About two decades back in *State of Maharashtra v. Vithal Rao Pritirao Chawan* (AIR 1982 SC 1215) the desirability of a speaking order while dealing
- B with an application for grant of leave was highlighted. The requirement of indicating reasons in such cases has been judicially recognized as imperative. The view was re-iterated in *Jawahar Lal Singh v. Naresh Singh and Ors.* (1987 (2) SCC 222). Judicial discipline to abide by declaration of law by this
- C Court, cannot be forsaken, under any pretext by any authority or Court, be it even the highest Court in a State, oblivious to Article 141 of the Constitution of India, 1950 (in short the 'Constitution').

7. Reason is the heartbeat of every conclusion, and without the same it becomes lifeless. (See *Raj Kishore Jha v. State of Bihar and Ors.* (2003 (7) Supreme 152).

8. Even in respect of administrative orders, Lord Denning M.R. in *Breen v. Amalgamated Engineering Union* (1971 (1) All E.R. 1148) observed "The giving of reasons is one of the fundamentals of good administration". In *Alexander Machinery (Dudley) Ltd. v. Crabtree* (1974 ICR 120)(NIRC) it was observed:
- E "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis
- F on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable
- G part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made; in
- H other words, a speaking out. The "inscrutable face of a sphinx"

is ordinarily incongruous with a judicial or quasi-judicial performance. A

9. The above position was highlighted in *State of Orissa v. Dhaniram Luhar* (2004(5) SCC 568).

10. Therefore, the impugned order of the High Court cannot be sustained and is set aside, and matter is remitted to it. The High Court shall take up the matter afresh and dispose of the same in accordance with law. The appeal is allowed without any order as to costs. B

K.K.T.

Appeal allowed. C