

M/S GOYAL ENTERPRISES
v.
STATE OF JHARKHAND AND ANR.
(Criminal Appeal No. 377 of 2008)

FEBRUARY 25, 2008

(DR. ARIJIT PASAYAT AND J.M. PANCHAL, JJ.)

Code of Criminal Procedure, 1973:

s. 378(4) – Leave to appeal against acquittal – Application for, summarily dismissed by High Court without giving any reasons – HELD: High Court ought to have set forth its reasons, however brief, in its order, indicative of application of its mind; all the more when its order is amenable to further avenue of challenge – Absence of reasons has rendered the order of High Court unsustainable, which is set aside – Leave granted to file appeal – High Court would entertain the appeal and after formal notice to respondents hear and dispose of the same in accordance with law – Judgment/Order of High Court – Requirement to give reasons.

CRIMINALAPPELLATE JURISDICTION : Criminal Appeal
No. 377 of 2008

From the Order dated 26./6/2006 of the High Court of Jharkhand at Ranchi in CrI. M.P. No. 619/2006.

Barun Kumar Sinha, Pratibha Sinha and B.K. Satija for the Appellant.

P.S. Mishra, Ravi C. Prakash, Tathagat H. Vardhan, Upendra Mishra, Dhruv Kumar Jha, Manu Shankar Mishra and Ajit Kumar Sinha for the Respondents.

The Order of the Court was delivered by

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

2. Challenge in this appeal is to the order passed by a

- A Division Bench of the Jharkhand High Court refusing to grant leave to appeal.

B 3. Stand of the appellant is that the order of the Division Bench summarily dismissing the application cannot be sustained. Learned counsel for respondent No.2, on the other hand, supported the order stating that though the order is non-reasoned, yet this is not a fit case for exercise of power under Article 136 of the Constitution of India, 1950 (for short 'The Constitution').

C 4. The application before the High Court for grant of leave was filed under Section 378(4) of the Code of Criminal Procedure, 1973 (for short 'The Cr.P.C.').

D 5. In the instant case proceeding was initiated on the basis of a complaint filed before the learned Judicial Magistrate, 1st Class, Jamshedpur alleging commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'The Act'). The accused who is respondent No.2 in the petition was found guilty, and was accordingly, convicted and sentenced to undergo simple imprisonment for six months. He
E was also directed to pay by way of compensation the cheque amount of Rs.61,860/- and Rs.62,860/- to the complainant within one month from the passing of the order. The accused filed a petition for revision before the Sessions Court. Learned Additional Sessions Judge, Fast Track Court No.2, Jamshedpur,
F by order dated 2.3.2006 set aside the judgment of conviction and sentence as passed by the learned Judicial Magistrate. Thereafter, as noted above, application in terms of Section 378(4) Cr.P.C. was filed. The same has been dismissed summarily by a Division Bench of the High Court.

G 6. 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
H 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. The absence of reasons has rendered the High Court order not sustainable. Similar view was expressed in *State of U.P. v. Battan* (2001 (10) SCC 607). About two decades back in *State of Maharashtra v. Vithal Rao Pritirao Chawan* (1981 (4) SCC 129), the desirability of a speaking order while dealing with an application for grant of leave was highlighted. The requirement of indicating reasons in such cases has been judicially recognised as imperative. The view was reiterated in *Jawahar Lal Singh v. Naresh Singh* (1987 (2) SCC 222). Judicial discipline to abide by declaration of law by this 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.

7. Reason is the heartbeat of every conclusion, and without the same it becomes lifeless. (See *Raj Kishore Jha v. State of Bihar* 2003 (11) SCC 519)

8. Even in respect of administrative orders Lord Denning, M.R. in *Breen v. Amalgamated Engg. Union* (1971) 1 All ER 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: "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 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

- A 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 the sphinx" is ordinarily
- B incongruous with a judicial or quasi-judicial performance.

9. The above position was highlighted by this Court in *State of Punjab v. Bhag Singh* (2004 (1) SCC 547).

- C 10. In view of the aforesaid legal position, the impugned judgment of the High Court is unsustainable and is set aside. We grant leave to the State to file the appeal. The High Court shall entertain the appeal and after formal notice to the respondents hear the appeal and dispose of it in accordance with law, uninfluenced by any observation made in the present
- D appeal. The appeal is allowed to the extent indicated.

R.P.

Appeal allowed.