

AMBIKA MANDAL

v.

THE STATE OF BIHAR (NOW JHARKHAND)
(Criminal Appeal No. 1891 of 2008)

NOVEMBER 28, 2008

**[DR. ARIJIT PASAYAT AND DR. MUKUNDAKAM
SHARMA, JJ.]**

Administration of Criminal Justice:

Disposal of appeal of accused without his being represented – Held: The accused had no notice of transfer of his appeal and when the matter was taken up by High Court, there was no representation – Judgment of High Court set aside and matter remitted to it for disposal afresh expeditiously – Practice and Procedure.

The appellant-accused was convicted and sentenced by the trial Court u/ss.304-C, 306 IPC and s.4 of Dowry Prohibition Act, 1961. The appeal was dismissed by the High Court. The accused filed the instant appeal primarily on the ground that the High Court dismissed his appeal without his being represented.

Disposing of the appeal, the Court

HELD: Originally, the appeal was pending before the Patna High Court and on reorganization of States, it was transferred to the Jharkhand High Court. The appellant had no notice and, therefore, when the matter was taken up, there was no representation. This position is not disputed by the respondent-State. In the circumstances, the impugned judgment is set aside and the matter is remitted to the High Court for fresh disposal expeditiously. [Paras 4 and 5] [764-H; 765-A-B]

A CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
No. 1891 of 2008.

From the final Judgment and Order dated 12.5.2003 of the
High Court of Jharkhand at Ranchi in Crl. Appeal No. 91 of
1991.

B Gaurav Agrawal for the Appellant.

Manish Kumar Saran for the Respondents.

C The Judgment of the Court was delivered by

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

2. Challenge in this appeal is to the judgment of a learned
Single Judge of the Jharkhand High Court dismissing the
D appeal filed by the appellant. The appeal was directed against
the judgment of conviction and order of sentence passed by
the learned second Additional Sessions Judge, Santhal
Pargana, Dumka, convicting the appellant for offences
punishable under Sections 304-B and 306 of the Indian Penal
E Code, 1860 (in short 'the IPC') and also under Section 3/4 of
the Dowry Prohibition Act, 1961 (in short 'the DP Act'). The
appellant was sentenced to undergo rigorous imprisonment for
ten years for the first offence and seven years' for the second
offence and six months rigorous imprisonment for the offence
F punishable under Section 4 of the DP Act.

3. The factual background is not necessary to be dealt with
in detail as learned counsel for the appellant's primary stand
was that the appeal was disposed of *ex-parte* and, he had no
notice of transfer of the case from Patna High Court to
G Jharkhand High Court.

4. Originally, the appeal was pending before the Patna
High Court and on reorganization of States, it was transferred
to the Jharkhand High Court. The appellant had no notice and,
H therefore, when the matter was taken up, there was no

→ representation. This position is not disputed by learned counsel A
for the respondent-State.

5. In the circumstances, we set aside the impugned B
judgment and remit the matter to the High Court for fresh
disposal. To avoid unnecessary delay, let the parties appear
before the High Court on 10.12.2008 without further notice. The
Hon'ble Chief Justice of the High Court is requested to allot the
case to an appropriate Bench.

6. It is made clear that we have not expressed any opinion C
on the merits of the case. It is fairly accepted by learned counsel
for the appellant that prayer for bail will not be pressed, in case
the appeal is taken up for early hearing. In that regard, we have
already passed the above order. We request the High Court
to explore the possibility of expeditious disposal of the appeal D
which is fifteen years old, preferably within four months from the
date of receipt of copy of our order.

7. The appeal is, accordingly, disposed of.

R.P.

Appeal disposed of.