

STATE OF M.P.

v.

SUGHAR SINGH & ORS.

(Curative Petition (Crl.) Nos.7-8 of 2009)

MARCH 9, 2010

**[K.G. BALAKRISHNAN, CJI., S.H. KAPADIA, ALTAMAS
KABIR AND R.V. RAVEENDRAN, JJ.]**

Constitution of India, 1950:

Articles 142 r/w Or. XLVII, Supreme Court Rules, 1966 – Curative petition – In the appeals filed by State against acquittal, impleading only four out of eight accused, Supreme Court, by its judgment dated 7.11.2008, reversing the acquittal of all the accused including those who were not impleaded as respondents and were not issued notice – HELD: There is a serious violation of principles of natural justice as the acquittal of all the accused has been set aside even though only four of them were respondents before the Court and others were not heard – Judgement dated 7.11.2008 is recalled – The accused-respondents directed to be released, if in custody – The appeals are restored to the file for being heard afresh with a direction that the said four accused be impleaded as respondents and all the accused be served with notice afresh – Practice and Procedure – Supreme Court Rules, 1966 – Or. XLVII – Natural justice – Judgement – Recalled.

·CRIMINAL APPELLATE JURISDICTION:

Curative Petition (Crl.) Nos.7-8 of 2009

IN

R.P. (CRL.) D 37915 of 2008.

1. *State of M.P. v. Sughar Singh & Ors.* (2008) 1 SCR 725.

A

IN

Criminal Appeal Nos.1362-1363 of 2004.

From the Judgment & Order dated 3.1.2003 of the High Court of Madhya Pradesh, Jabalpur bench at Gwalior in Criminal Appeal No. 242 of 1991 and 253 of 1991.

B

WITH

Cur. Pet. (CRL.) NO.D 6924/2009 IN R.P.(CRL.)D 37915 of 2008 In Crf. A. Nos.1362-1363 of 2004.

C

Jai Prakash Pandey, Niraj Kr. Mishra for the appearing parties.

The Order of the Court was delivered

ORDER

D

The Sessions Judge, Shivpuri in the State of Madhya Pradesh tried eight accused persons for the offence under Section 302 read with Section 149 of the I.P.C., Section 326 read with Section 149 of the I.P.C. and other allied offences.

E

All the accused were found guilty of the offences charged against them and for the main offence punishable under Section 302 read with Section 149 of the I.P.C. all were convicted and sentenced to undergo imprisonment for life and for the remaining offences they were sentenced to undergo rigorous imprisonment. The accused persons preferred two

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appeals before the High Court of Judicature of Madhya Pradesh, namely, Criminal Appeal Nos.242/1991 and 253 of 1991. The Division Bench of the High Court of Madhya Pradesh by its judgment dated 3.1.2003 set aside the conviction and sentence imposed against the accused who were the appellants before it. Aggrieved by the same, the State

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preferred Criminal Appeal Nos.1362-1363 of 2004. Though there were eight accused persons, only four accused were arrayed as party respondents in the said appeals namely, Sughar, Laxman, Onkar and Ramesh. Other accused, namely, Bhoja, Raghubir, Puran and Balbir were not impleaded as

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respondents in these Criminal Appeals and consequently notices were not issued to them. This Court, by judgment on 7th November, 2008 in the aforesaid Criminal Appeals, reversed the acquittal of the accused by the High Court and found them guilty of the offences punishable under Section 304 Part-II read with Section 149 of the I.P.C. and sentenced them to undergo imprisonment for a period of six years. The conviction of the accused for the offences punishable under Section 148 as also Section 326 read with the Section 149 of the I.P.C. and the sentence imposed by the Sessions Court in regard to the said offences was upheld by this Court.

We have heard learned counsel for the petitioners. The respondent State, though served with a notice through standing counsel, has not chosen to enter appearance.

These Curative Petitions have been filed by accused No.2 (Raghubir) and by accused no.4 and 5 (Sughar Singh and Laxman) on the ground that acquittal of Bhoja, Raghubir, Puran and Balbir have been reversed without affording an opportunity of being heard. We see that there is serious violation of principles of natural justice as the acquittal of all the accused has been set aside even though only four of them were made respondents before this Court and the others were not heard. We are, therefore, constrained to recall the judgment passed by this Court in Criminal Appeal Nos.1362-1363 of 2004 on 7th November, 2008.

Consequently, the accused Sughar Singh, Laxman, Onkar and Ramesh, if they are in custody, are directed to be released forthwith.

In the result, these Curative Petitions are disposed of and the Criminal Appeal Nos.1362-1363 of 2004 are restored to the file for being heard afresh with a direction that the other four accused (Bhoja, Raghubir, Puran and Balbir) be impleaded as respondents and all accused be served with fresh notices.

R.P.

Curative Petitions disposed of.