

(2008) 02 SC CK 0091

In the Supreme Court Of India

Case No : Criminal Appeal No. 377 of 2008 (Arising out of SLP (Criminal) No. 4710 of 2006)

Goyal Enterprises

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 25-02-2008

Acts Referred:

Constitution of India, 1950 — Article 136, 141
Criminal Procedure Code, 1973 (CrPC) — Section 378(4)
Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : AIR 2008 SC 1510 : (2008) AIRSCW 1609 : (2008) 2 ALT(Cri) 193 : (2008) CriLJ 1923 : (2008) 1 GLH 712 : (2008) 3 JT 309 : (2008) 39 OCR 958 : (2008) 3 SCALE 74 : (2008) 13 SCC 570 : (2008) 1 UC 492

Hon'ble Judges : J. M. Panchal, J;Arijit Pasayat, J

Bench : Division Bench

Advocate : 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 Respondent

Final Decision : Disposed Of

Judgement

Arijit Pasayat, J.—Leave granted.

Challenge in this appeal is to the order passed by a Division Bench of the Jharkhand High Court refusing to grant leave to appeal.

2. 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").

The application before the High Court for grant of leave was filed u/s 378(4) of the Code of Criminal Procedure, 1973 (for short "The Cr.P.C").

3. 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 u/s 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 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, 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.

4. 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. The absence of reasons has rendered the High Court order not sustainable. Similar view was expressed in 257984 . About two decades back in 275273 , 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 275566 . 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.

Reason is the heartbeat of every conclusion, and without the same it becomes lifeless. (See 266643

5. 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 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 incongruous with a judicial or quasi-judicial performance.

The above position was highlighted by this Court in 264749 .

6. 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 appeal. The appeal is allowed to the extent indicated.