

ITEM NO.101

COURT NO.6

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal Nos.62-63/2014

ANOKHILAL

Appellant(s)

VERSUS

STATE OF MADHYA PRADESH

Respondent(s)

Date : 10-12-2019 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT

HON'BLE MS. JUSTICE INDU MALHOTRA

HON'BLE MR. JUSTICE KRISHNA MURARI

Counsel for the Parties:

For Appellant

Mr. Sidharth Luthra, Sr. Adv.
Mr. Anoopam N. Prasad, Adv.
Ms. Mehaak Jaggi, Adv.
Ms. K. V. Bharathi Upadhyaya, AOR

For State

Mr. Varun Chopra, Dy. AG
Mr. Gurtejpal Singh, Adv.
Mr. Harsh Parashar, AOR

Ms. Sonia Mathur, Sr. Adv.
Mr. Sushil Kumar Dubey, Adv.
Ms. Divya A. Nair, Adv.
Mr. Puneet Pathak, Adv.
Mr. Anuj Aggarwal, Adv.
Mr. Anmol Chandan, Adv.
Ms. Priyanka Das, Adv.
Mr. Sumit Upadhyay, Adv.
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

Following issues were principally raised by Mr. Sidharth Luthra, learned Senior Advocate appearing for the appellant on behalf of the Supreme Court Legal Services Committee:

I) After the arrest of accused on 04.02.2013, charge-sheet was filed on 13.02.2013. The matter was thereafter posted for framing of charges and was to be taken up on 19.02.2013. On 18.02.2013, one learned counsel came to be appointed as Amicus Curiae who did not appear on 19.02.2013 when the matter was posted for consideration whether charges should be framed or not. Accordingly, another learned counsel came to be appointed as Amicus Curiae on 19.02.2013. On the same day, charges were framed. The matter was thereafter taken up for leading of evidence and by judgment and order dated 04.03.2013, the Trial Court convicted the appellant and imposed, among other sentences, death sentence on the appellant.

The judgment of conviction was rendered on 04.03.2013 and on same day the matter was taken up for consideration as to what sentence be imposed. The order of sentence was also passed on 04.03.2013.

In the submission of the learned Senior Counsel, following aspects are therefore very clear:

a) The learned Amicus Curiae came to be appointed the same day when the charges were framed, which effectively means that the learned Amicus Curiae did not have sufficient opportunity to study the matter nor did he have any opportunity to have any interaction with the accused to seek

appropriate instructions;

- b) The entire trial was finished in 13 days;
- c) the judgment of conviction and order of sentence were passed on the same day; and
- d) At no stage, any report was obtained from any Probation Officer who could have given valuable inputs as to whether the case called for any leniency on any count. The death sentence was imposed without calling for such report.

II) Mr. Luthra also submitted that the matter also raises question about the applicability of Section 309 of the Code of Criminal Procedure, 1973 and the scope and extent of the amended proviso to sub-Section (1) of Section 309 pursuant to the Criminal Law (Amendment) Act, 2018.

As a matter of fact, the issue was noted by this Court in its order dated 12.12.2018. Said order further shows that another issue that engaged the attention of the Court was about the availability of video-conferencing facility so that the process of leading evidence could be expedited and simplified. On the last issue, notices were also issued to the Director General - National Informatics Centre (NIC) and the Secretary, Department of Justice, Ministry of Law and Justice.

We heard Mr. Sidharth Luthra, learned Senior Advocate appearing for the appellant on behalf of the Supreme Court Legal Services Committee, Ms. Sonia Mathur, learned Senior Advocate appearing for the Ministry of Law and Justice, and, Mr. Varun Chopra, Dy. Advocate General appearing for the State.

As presently advised, we will deal first with the issue pertaining to the present trial and whether the approach adopted by the Trial Court in the present matter could be accepted or whether there was any infraction or error on the part of the Trial Court in adopting the approach in the present matter. Other issues, namely applicability of Section 309 and advisability of having video-conferencing in the matter will be dealt with at a later stage and the consideration of these two issues, for the time being, is deferred.

We, therefore, reserve order insofar as the first issue is concerned. The matter shall thereafter be placed to consider the other issues.

(MUKESH NASA)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER