

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1294 OF 2008
[Arising out of SLP(Crl.) No. 1923/2008]

MACHINDRA HARIBA MOHITE ... **APPELLANT(S)**

:VERSUS:

STATE OF MAHARASHTRA ... **RESPONDENT(S)**

ORDER

Leave granted.

Our attention has fairly been drawn to the fact that the criminal appeal filed by the appellant herein was heard out by the High Court in absence of his counsel. Although there cannot be any doubt, whatsoever, that the Court's valuable time is wasted in such a matter but as the right to be represented by a lawyer is also a valuable right, we are of the opinion that in a case of this nature, the High Court would be well advised to appoint an amicus curiae and proceed to hear out the matter after giving an opportunity of hearing to the appellant.

Even on the date fixed for hearing if the amicus curiae does not appear, the High Court would be at liberty to take up the hearing of the matter and proceed to decide the same by obtaining the assistance of the counsel or the public prosecutor present.

We deprecate such a practice on the part of the members of the Bar failing to appear before the High Court, particularly when a case of this nature comes up for hearing.

We, therefore, with great reluctance, set aside the impugned judgment and remit the matter back to the High Court for consideration of the criminal appeal afresh. The High Court shall appoint an amicus curiae and proceed to hear the matter upon fixing a date of hearing.

The appeal is disposed of with the aforementioned observation and direction.

**.....J
(S.B. SINHA)**

**.....J
(AFTAB ALAM)**

**NEW DELHI,
AUGUST 13, 2008.**