

PETITIONER:
MUKTINARAIN JHA AND ORS.

Vs.

RESPONDENT:
STATE OF BIHAR

DATE OF JUDGMENT 23/01/1978

BENCH:
KRISHNAIYER, V.R.
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KRISHNAIYER, V.R.
SINGH, JASWANT

CITATION:
1978 AIR 770 1978 SCR (2) 602
1978 SCC (1) 497

ACT:
Practice and Procedure--Communication of orders passed in appeal, revision reference by the High Court in Criminal Cases should be sent without least delay--Criminal Procedure Code (Act II of 1974), 1973, Ss. 371, 388.

HEADNOTE:
The Petitioners' special leave petition was dismissed for want of surrender certificate as required under Rule 6 of Order XXI of the Supreme Court Rules, 1966. But in fact the petitioners did surrender but the Assistant Sessions Judge refused to take them into jail custody for want of receipt of judgment from the High Court.

Allowing the petition for restoration of the special leave petition, the Court.

Observed :-

It is unfortunate that when High Courts deliver judgments confirming the conviction and sentence, there is a long delay in communicating the fact of affirmation of the sentence to the trial courts. A sentence should not be delayed at least after it is confirmed by the High Court but when this happens on account of the indifference of the administrative side of the High Court in the mechanical process of communication to the trial court it does not speak well of the management side of our court system. [602 H, 603 A]

[The Court expressed its hope that more business-like procedures in such matters would be evolved so that the rule of law would not suffer a new shock on account of messy-management of judicial business-rectifiable by a little more promptitude and attention]

JUDGMENT:
CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 169 of 1968.
Application for restoration of Special Leave Petition.
Parmod Swarup for the petitioner.
The Order of the Court was delivered by
KRISHNA IYER, J. The special leave petition had been

dismissed on an earlier occasion on the score that the petitioners had not surrendered to judicial custody which is more or less a condition precedent to seeking the leave of this Court to file an appeal. However, the petitioners point out, in the present petition for restoration of S.L.P., that although they had offered their person and surrendered before the, Assistant Sessions Judge, Madhipure, requesting that they be remanded to jail custody, the court declined to take them into custody for want of receipt of judgment from the High Court. Prima facie, this appears to be true in view of annexure A which is a copy of the application put into that court. It is unfortunate that when High Courts deliver judgments confirming the conviction and sentence, there is a long delay in communicating the fact of affirmation of the sentence to the trial courts.

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A sentence should not be delayed at least after it is confirmed by the High Court but when this happens on account of the indifference of the administrative side of the High Court in the mechanical process of communication to the trial court it speaks badly of the management side of our court system. We wish that more business-like procedures in such matters were evolved so that the rule of law need not suffer a new shock on account of messy-management of judicial business rectifiable by a little more promptitude and attention.

These observations have relevance to the present case because, long after the judgment of the High Court and the sentences offering to surrender, the court's sentence has not started to operate and the S.L.P. in this Court has had to be dismissed-things which should not have and could not have happened if the High Court's administrative side had been less indifferent.

The petition is allowed and the S.L.P. will be posted three weeks later. Time to surrender ten days. Meanwhile communication of this order, with some administrative celerity, will be made both to the High Court and to the trial court. (The practice direction is to be reported).

S.R.

Petition allowed.

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