

Laxminarayan Vs. the State

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Court : Madhya Pradesh

Decided On : Feb-05-1952

Reported in : 1952CriLJ1440

Judge : Shinde, C.J., ;Dixit and ;Chaturvedi, JJ.

Appellant : Laxminarayan

Respondent : The State

Judgement :

Shinde, C.J.

1. This is an application for leave to appeal to the Supreme Court. The short facts of the case are as follows: The accused Laxminarayan was convicted under S, 292, Gwalior Penal Code, corresponding to Section 302, Penal Code, by the Sessions Judge, Gwalior, and was sentenced to 14 years' rigorous imprisonment and a fine of Re. 1. A Division Bench of this Court dismissed the appeal preferred by the accused Laxminarayan but enhanced the sentence to rigorous imprisonment for life. Against that decision, an appeal was preferred under Section 25, Madhya Bharat High Court of Judicature Act. That appeal was dismissed on 9-2-1951. After the dismissal of his appeal by the Full Bench on 9.2.1951 the accused has filed this application which is dated 7.11.1951.

2. From the facts of the case given above it is clear that the application has been filed nearly nine months after the date of the final order. This delay cannot be

construed as anything but inordinate. Apart from this we do not consider that the case is a fit one for appeal to the Supreme Court. There is no doubt that the present case is not covered by Sub-clause (o) of Clause 1 of Article 184 of the Indian Constitution. A certificate for appeal to the Supreme Court can only be given if the case is a fit one. In several cases this Court has laid down the conditions under which leave to appeal to Supreme Court can be granted. In *Indore State v. Rajkumarsingh Cri. Misc. case No. 139 of 1951*, a Division Bench of this Court observed as follows:

Except in cases falling under Sub-clauses (a) and (b) of Article 134 in all other criminal matters the Constitution of India intends that the High Courts in the respective States in the territory of India should normally and ordinarily be final Courts of appeal and that in determining the question whether a case is a fit one for appeal the principles and conditions which the Supreme Courts itself would follow in exercising its discretion in granting special leave under Article 136 should be borne in mind.

In that case the learned Chief Justice relying on the observations of the Supreme Court in *Pritam Singh v. State : 1950 CriLJ1270* , observed as follows:

A Court would not be justified in granting a certificate of fitness for appeal, even if its decision involved a substantial question of law unless it was satisfied that it had resulted in grave and substantial injustice.

3. Similar observations were made by a Division Bench of this Court in *Krishnakant Vyas v. State Cri. Misc. case No. 44 of 1951 (Indore)*. In *Prahladsingh v State Cri. Misc. case No. 17 of 1951 (Gwalior)*, a Division Bench of this Court took the view that under Article 134(1)(c) a case cannot be certified as a fit one for appeal if no injustice of serious and substantial character has occurred to the petitioner and if the case does not involve such a substantial question of law as, by reason of the question being unsettled or by reason of there being conflict of existing authorities as to the principle of law involved, requires an authoritative decision from the highest Court in the land. Following these principles we find that the application must be rejected. The applicant has given no grounds on which he bases his claim for leave to appeal. The decision of the Full Bench does not

disclose that the case involves a substantial question of law which by reason of its being unsettled or by reason of there being a conflict of existing authorities needs an authoritative decision from the Supreme Court; nor is there any reason to hold that any injustice of serious or substantial character has occurred to the petitioner. In these circumstances this application must be rejected.

4. Accordingly the petition for a certificate that the case is a fit one for appeal is rejected.

Dixit, J.

5. I agree.

Chaturvedi, J.

6. I agree.

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