

Shyam Sunder vs State Of Rajasthan on 25 February, 1981

Equivalent citations: AIR1982SC1175, 1982CRILJ1388, (1981)2SCC672, AIR 1982 SUPREME COURT 1175, 1981 (2) SCC 672, 1982 WLN(U.C) 200, 1982 CRILR(SC MAH GUJ) 57

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Bench: Syed M. Fazal Ali, V.B. Eradi

ORDER

S. Murtaza Fazal Ali, J.

1. This appeal in our opinion must succeed on a short point. The admitted facts are that the criminal appeal filed by the appellant before the Rajasthan High Court was initially presented in Jodhpur which is the headquarter of the High Court. A Counsel from Jodhpur was engaged by the appellant to argue the appeal. While the appeal was pending in the Jodhpur Bench it was transferred to the Bench at Jaipur without serving any notice" on the appellant. The appellant has stated in affidavit that even his Counsel at Jodhpur did not inform him that the appeal had been transferred to Jaipur and will be heard there. In these circumstances, the appeal was heard by the Bench at Jaipur in the absence of the accused, as would appear from the judgment itself, Counsel for the State of Rajasthan has not denied these facts and has conceded that as the appeal had been decided without hearing the accused he would not have any objection] if the appeal is remitted to the High Court at Jaipur for rehearing in presence of the accused. Although the High Court at Jaipur has given reasons for dismissing the appeal the fact remains that as the accused was not represented the possibility of the appellant having persuaded the High Court to take a different view cannot be reasonably excluded. In these circumstances, therefore, we allow this appeal, set aside the judgment of the High Court Bench at Jaipur and remand the appeal to the High Court at Jaipur for disposal in accordance with law after hearing the appellant as also the Counsel for the respondent. The appellant will now immediately engage his Counsel and appear before the High Court for further directions on the 16th of March, 1981. The High Court will fix a short date and dispose of the appeal as soon as possible.

2. The appellant will continue on bail.