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HARVEER SINGH & ANR.

v.

STATE OF U.P.

(Criminal Appeal No. 505 of 2019)

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MARCH 15, 2019

**[ABHAY MANOHAR SAPRE AND
DINESH MAHESHWARI, JJ.]**

Revision:

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Revision petition – Ex parte dismissal of the criminal revision, by the High Court – Interference with – Held: High Court dismissed the revision without assigning any reason – Such disposal cannot be countenanced – High Court should have applied its judicial mind to the factual and legal aspects in the case and then passed appropriate orders either for upholding or setting aside the conviction but the same was not done – Matter remanded to the High Court for deciding the revision petition afresh.

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Allowing the appeal, the Court

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HELD: The High Court while dismissing the revision did not assign any reason. The disposal of the revision in this manner cannot be countenanced. The least that was expected of was that the High Court would apply its judicial mind to the factual and legal aspects arising in the case and then pass appropriate orders either for upholding the conviction or acquitting the appellants, as the case may be. The High Court failed to do so. The impugned order is set aside. The case is remanded to the High Court for deciding the revision petition afresh on merits in accordance with law. [Paras 11,12,14][1016-C, D-F]

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No.505 of 2019.

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From the Judgment and Order dated 09.12.2016 of the High Court of Judicature at Allahabad in CrI. Revision No.2870 of 2009.

D.S. Kauntae, Keshav Ranjan, Advs. for the Appellants.

Vishnu Shankar Jain, Adv. for the Respondent.

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The Judgment of the Court was delivered by

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ABHAY MANOHAR SAPRE, J. 1. Leave granted.

2. This appeal is directed against the final judgment and order dated 09.12.2016 passed by the High Court of Judicature at Allahabad in Criminal Revision No.2870 of 2009 whereby the High Court dismissed the said revision *ex parte* filed by the appellants herein.

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3. The appeal involves a short point as is clear from the facts stated *infra*.

4. The appellants along with other two accused were prosecuted for the offences punishable under Sections 323, 324, 452, 504 and 506 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) in Criminal Case No. 247/1 of 2008 by the Judicial Magistrate, Mathura. However, by order dated 01.05.2008, the Judicial Magistrate acquitted all the accused persons including the appellants herein from all the charges.

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5. The State felt aggrieved and filed appeal being Criminal Appeal No.81/2008 before the Additional District and Sessions Judge, Mathura. By order dated 20.07.2009, the Appellate Court while partly allowing the appeal upheld the order of the order of the Judicial Magistrate in respect of other two accused and convicted the appellants herein for the offences punishable under Sections 323,324 and 452 IPC and sentenced them to undergo rigorous imprisonment for one year with fine of Rs 500/- each under Section 323 IPC, one year rigorous imprisonment with fine of Rs.500/- each under Section 324 IPC and one year rigorous imprisonment under Section 452 IPC. In the event of not paying the fine, the appellants(accused) shall further undergo three months each additional imprisonment. All these punishments were to run concurrently.

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6. The appellants felt aggrieved by the order of the Appellate Court filed criminal revision before the High Court of Allahabad. At the time of hearing, none appeared for the appellants. By impugned order, the High Court dismissed the revision *ex parte*, which has given rise to filing of the present appeal by way of special leave by the appellants(accused) in this Court.

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7. So, the short question, which arises for consideration in this appeal, is whether the High Court was justified in dismissing the appellants’ revision.

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A 8. Heard learned counsel for the parties.

9. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow the appeal and remand the case to the High Court for deciding the revision afresh on merits in accordance with law.

B 10. The impugned order reads as under :

“3. Having gone through the record, I do not find any manifest error or otherwise illegality, procedural or otherwise, so as to justify interference in criminal revision.

C **4. Dismissed.”**

11. In our view, as would be clear from the perusal of the impugned order, the High Court while dismissing the revision did not assign any reason. We cannot countenance disposal of the revision in this manner.

D 12. The least that was expected of was that the High Court will apply its judicial mind to the factual and legal aspects arising in the case and then pass appropriate orders either for upholding the conviction or acquitting the appellants, as the case may be. We find that the High Court failed to do this and hence interference is called for.

E 13. Learned counsel for the appellants, however, made submissions on various issues arising in the case. We do not wish to take note of them and nor consider it proper to deal with them. The appellants are free to raise their submissions before the High Court.

F 14. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed. The impugned order is set aside. The case is remanded to the High Court for deciding the revision petition, out of which this appeal arises, afresh on merits in accordance with law.

15. We request the High Court to decide the revision preferably within six months.