

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.....OF 2023
(Arising out of Special Leave Petition(Criminal)No.9488 of 2023)

MICHAEL RAJ

Appellantr(s)

VERSUS

THE STATE OF TAMIL NADU REP. BY
THE INSPECTOR OF POLICE

Respondent(s)

O R D E R

Leave granted.

2. Heard learned counsel for the parties. It is true that in criminal appeal against conviction, an option is available to the appellate court to decide the appeal on merits in absence of the advocate appointed by the accused. But the better option will be to appoint an *amicus* to espouse the cause of the accused.

3. In this case, by the impugned judgment, the appeal against conviction preferred by the appellant has been finally decided in absence of the advocate for the appellant. We have carefully perused the judgment. It was the duty of the High Court to re-appreciate the entire evidence and then come to the conclusion whether the guilt of the appellant was proved beyond a reasonable doubt. In this case, there is hardly any consideration of evidence by the High Court. In our view, criminal appeal against the order of conviction has not been decided in the manner in which it ought to have been decided. We, therefore, set aside the impugned

judgment and restore CrI.A.(MD) No.458 of 2001 to the file of the High Court.

4. We direct the Registrar(Judicial) of Madurai Bench of the Madras High Court to list the appeal before the concerned roster bench on 08.01.2024. The appellant shall ensure that his advocate remains present on that day. On 08.01.2024, the High Court will fix a date for hearing. If for any reason, the advocate for the appellant remains absent on the date fixed, it will be open for the High Court to appoint an *amicus curiae*, to represent the cause of the appellant and decide the appeal on merits. Till the disposal of the appeal, interim relief granted on 04.08.2023 by this Court will continue to operate.

5. The appeal is partly allowed in the above terms. Pending application(s), if any, shall also be allowed.

.....J.
(ABHAY S. OKA)

.....J.
(PANKAJ MITHAL)

NEW DELHI
November 28, 2023

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 9488/2023

(Arising out of impugned final judgment and order dated 19-06-2007 in Crl.A.(MD) No. 458/2001 passed by the High Court Of Judicature At Madras At Madurai)

MICHAEL RAJ

Petitioner(s)

VERSUS

THE STATE OF TAMIL NADU REP. BY
THE INSPECTOR OF POLICE

Respondent(s)

IA No. 142357/2023 - EXEMPTION FROM FILING O.T.)

Date : 28-11-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. G.Sivabalamurugan, AOR
Mr. Selvaraj Mahendran, Adv.
Mr. C.adhikesavan, Adv.
Mr. Sumit, Adv.
Mr. S.b.kamalanathan, Adv.
Mr. P.v.harikrishnan, Adv.

For Respondent(s) Dr. Joseph Aristotle S., AOR
Ms. Shubhi Bhardwaj, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is partly allowed in terms of the signed order.
Pending application(s), if any, shall also allowed.

(HEMALATHA MOHAN)
P.S. to REGISTRAR

(AVGV RAMU)
COURT MASTER (NSH)

(Signed order is placed on file)