

Shiv Kumar vs.Lt. Governor & Ors

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Court : Delhi

Decided On : Jul-12-2019

Appellant : Shiv Kumar

Respondent : Lt. Governor & Ors

Judgement :

IN THE HIGH COURT OF DELHI AT NEW DELHI \$~1 * + W.P.(CRL) 1665/2019
& CRL.M.A. 12083/2019 SHIV KUMAR

... Petitioner

% Through: Mr.Suraj Rathi, Advocate. versus LT. GOVERNOR & ORS Through:
Ms.Kamna Vohra, ASC for the State.

... RESPONDENTS

Date of Decision:

12. h July, 2019 CORAM: HON'BLE MR. JUSTICE MANMOHAN HON'BLE MS.
JUSTICE SANGITA DHINGRA SEHGAL MANMOHAN, J: (Oral)

JUDGMENT

1 Present writ petition has been filed under Article 226 of the Constitution of India read with Section 482 of Cr.P.C. challenging the constitutional validity of Rule 2(30) read with Rule 1252(a) of Delhi Prison Rules, 2018 which came into effect on 01st November, 2018 (hereinafter referred to as the Rules 2018) on the ground that they are based on two erroneous legal opinions dated 01st July, 2013 and

18th May, 2018 of the Law and Justice Department, Govt. of NCT of Delhi. W.P.(CRL.) 1665/2019 Page 1 of 3 2. Learned counsel for the petitioner submits that the Department of Law and Justice has misconstrued expression multiple murders to mean murder of more than one person. He points out that the Department of Law and Justice, Govt. of NCT of Delhi has given its opinion relying upon judgment of the Madras High Court in Anbarasu vs. DSP Nagercoil MANU/TN/4768/2011. He emphasises that in the said opinion it had been stated that the High Court in the said case had used the expression multiple murders to mean murder of more than one person. He clarifies that actually in the said case, three persons had been murdered and not two.

3. This Court is of the view that the application made for remission by the petitioner has to be decided in accordance with the extant Rules 2018 as these are the Rules that are prevalent on the date the petitioners application for remission has to be considered. The definition of multiple murders under the extant Rules 2018 means murder of more than one person either in Single FIR or Multiple FIRs and the said rule is not based on the impugned opinions.

4. Consequently, the legal opinions of the Department of Law and Justice, Govt. of NCT of Delhi are irrelevant and immaterial as the petitioners application has to be decided in accordance with the extant Rules 2018 only and not in accordance with the impugned opinions.

5. Further the dictionary meaning of multiple murders means two or more. Consequently, the said definition is not untenable in law.

6. Moreover, this Court finds that the petitioner has already completed fourteen years of incarceration and is entitled to remission even according to the impugned Rule 2(30) read with Rule 1252(a) of the Rules 2018. W.P.(CRL.) 1665/2019 Page 2 of 3 7. Consequently, the challenge to the validity of the aforesaid Rules 2018 on the ground that the two opinions of the Department of Law and Justice, Govt. of NCT of Delhi are contrary to facts is irrelevant and immaterial. Accordingly, the present writ petition and application are dismissed. JULY12 2019 Afa/KA MANMOHAN, J SANGITA DHINGRA SEHGAL, J Page 3 of 3 W.P.(CRL.) 1665/2019

