

Riyaz Khan @ Gainda vs.state

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Court : Delhi

Decided On : Aug-21-2019

Appellant : Riyaz Khan @ Gainda

Respondent : State

Judgement :

IN THE HIGH COURT OF DELHI AT NEW DELHI \$~4 * + W.P.(CRL) 1709/2019
& CrI.M.A.No.12368/2019 RIYAZ KHAN @ GAINDA

... Petitioner

Through Mr.Harsh Prabhakar, Advocate (DHCLSC). STATE versus
Respondent Through Ms.Kamani Vora, ASC for the State with SI Vikram Singh,
PS ODRS. % CORAM: HON'BLE MR. JUSTICE MANMOHAN HON'BLE MS.
JUSTICE SANGITA DHINGRA SEHGAL Date of Decision:

21. t August, 2019

JUDGMENT

MANMOHAN, J: (Oral) 1. Present writ of habeas corpus has been filed seeking directions to the respondent to release the petitioner as he was a juvenile on the date of incident/registration of FIR No.141/2008 registered with PS Old Delhi Railway Station (ODRS), under Sections 302/307/394/3 IPC.

2. The petitioner was convicted by the Trial Court and the judgment of the Trial Court was upheld by a Coordinate Bench of this Court vide judgment dated 31st October, 2014 passed in Crl.A.No.299/2012. W.P.(Crl) 1709/2019 Page 1 of 3 3. It is pertinent to mention that no documentary evidence has been placed on record to show that the petitioner was a minor on the date of the crime.

4. A perusal of the nominal roll reveals that the petitioners conduct in jail has been unsatisfactory and he is even accused of having committed a murder in the jail itself. The relevant portion of the nominal roll of the petitioner is reproduced hereinbelow:-

"xx 15. xxx VIOLATION OF DELHI PRISON RULES (COPY OF PUNISHMENT TICKET ENCLOSED) xxx 18.03.2019: RECOVERED EXTRA BELONGING ITEMS-WARNED BY SUPERINTENDENT1803.2019: HUNGER STRIKE-WARNED BY SUPERINTENDENT2601.2019: ATTACK ON CO-INMATES (APPRAISAL AWAITED FROM DISTRICT & SESSION JUDGE TIS HAZARI COURT) 18.05.2018: PHYSICAL ASSAULT & ABUSING LANGUAGE WITH OTHER INMATE2104.2016: SELF INJURY1602.2015: ATTACK ON CO-INMATE1307.2014: ATTACK ON CO-INMATE1107.2013: MISBEHAVE WITH JAIL STAFF0107.2013: ATTACK ON CO-INMATE2212.2012: FIGHTING WITH OTHER INMATES2625.02.2012: SELF INJURY2602.2012: FIGHTING WITH OTHER INMATES1101.2012: SELF INJURY1908.2011: ATTACK ON CO-INMATE2508.2011: SELF INJURY W.P.(Crl) 1709/2019 Page 2 of 3 16. JAIL CONDUCT FOR THE LAST ONE YEAR UN-SATISFACTORY17 DETAILS OF NIL I.BAIL/PAROLE/ FURLOUGH AVAILED18 REPORT OF NIL MISCONDUCT DURING INTERIM BAIL/PAROLE/ FURLOUGH (IF ANY) 19. DETAILS OF PENDING CASE (IF ANY) FIR NO.526/2015 U/s 302/147/148/1

IPC P.S. HARI NAGAR INVOLVE IN JAIL MURDER CASE, SAME IS PENDING. (emphasis supplied) 5. As the petitioners conduct in jail has been highly unsatisfactory, this Court is of the view that he cannot invoke the high prerogative writ jurisdiction as the said jurisdiction is available to those who approach the Courts with clean hands and good conduct.

6. Consequently, the present petition and the pending application are dismissed.

7. Trial Court records be sent back. MANMOHAN, J SANGITA DHINGRA
SEHGAL, J AUGUST21 2019 KA W.P.(Crl) 1709/2019 Page 3 of 3

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