

State Vs. Md. Samsur

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Court : Orissa

Decided On : Jul-22-1965

Reported in : 1966CriLJ227

Judge : R.K. Das, J.

Appellant : State

Respondent : Md. Samsur

Judgement :

R.K. Das, J.

1. This s a reference made by the Additional Dis-trict M istrate (Judicial), Puri, recommending en-hancement of the sentence passed on the opposite party for his conviction under Section 7 of the Criminal Law Amendment Act.

2. On 18-4-1964, the officer-in-charge of the town Police Station, Puri, drew up an F. I. R against the opposite party, Md. Samsur, alleging that the accused by means of a loud-speaker was shouting slogans advocating for observance of Hartal in the town of Puri According to the S. I., the accused incited the people assembled near the Government General Hospital Puri, to observe Hartal and was responsible for causing obstruction to some of the rickshaw pullers moving in the street. The accused was arrested on the same day and was produced before the Court. The Court took cognizance of an offence under Section 7 of the Criminal

Law (Amendment) Act, Section 341, Penal Code and Rule 41 of the Defence of India Rules.

3. The accused admitted his guilt and the Court convicted him under Section 341, Penal Code and Section 7 of the Criminal Law (Amendment) Act as above.

In view of the fact that the accused was already in jail for about 15 days, he awarded a sentence of one month under Section 7 of the Criminal Law (Amendment) Act, and did not consider it appropriate to pass any sentence under Section 341, Penal Code, as the facts alleged against the accused in respect of both the charges were identical--Since the authorities are of the view that the sentence passed upon the accused was lenient, they filed an application in revision before the Additional District Magistrate. Puri, for enhancement of the sentence and the Additional District Magistrate has recommended for the enhancement of the sentence to this Court.

4. The main question for consideration is whether it is a fit case where the sentence passed upon the accused can be enhanced, it is well settled that the question of awarding sentence is a matter of discretion for the trial Court, though undoubtedly the High Court, in appropriate cases where the sentence passed is Unusually lenient, may enhance the sentence. Though no limitation has been placed on the powers of the High Court to enhance a sentence, nevertheless it is a judicial act and like all judicial acts involves an exercise of discretion and such discretion must be exercised on the basis of some well-known judicial principles. The Supreme Court in a case reported in *Bed Raj v. State of Uttar Pradesh* : 1955 CriLJ1642 held that in a matter of enhancement there should not be any interference unless the sentence passed is manifestly inadequate. The same view was also reiterated in a later decision of the Supreme Court reported In *Alatngir v. State of Bihar* AIR 1959 S C 438, where their Lordships observed that the question of sentence is normally a matter left to the discretion of the trial Judge. It is for him to take into account all the circumstances and decide what sentence would meet the ends of justice in a particular case. Though the High Court has jurisdiction to enhance the sentence that jurisdiction can be properly exercised only if the High Court is satisfied that the sentence passed by the trial Judge is unduly lenient or in

passing the order of sentence the trial Judge has manifestly failed to consider the relevant facts.

5. So far as the present case is concerned, the trial Court took into consideration all the relevant circumstances and nothing has been shown to justify an enhancement. All that was alleged against the accused was that he was proclaiming through a loud-speaker asking people to observe Hartal on a particular day and was making some comments on the rise of prices.

The Court obviously took all these into consideration as also the fact prior to the date of conviction and sentence the accused was already in jail for sometime. Nothing has been placed before me to justify the contention that the sentence passed on the accused was unduly lenient. In the circumstances I do not see any reason to interfere with the sentence passed on the accused.

The reference is accordingly rejected.

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