

islamuddln Vs. State

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Court : Delhi

Decided On : Dec-13-1974

Reported in : 1975CriLJ841; 1975RLR169

Judge : P.S. Safeer, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 397; Evidence Act - Sections 130

Appeal No. : Criminal Revision Appeal No. 327 of 1974

Appellant : islamuddin

Respondent : State

Advocate for Pet/Ap. : P.P. Grover and; H.R. Sachdev, Advs

Judgement :

P.S. Safeer, J.

(1) Feeling dissatisfied with the order dt. 25-11-1974, by which Additional Sessions Judge, Delhi had dismissed revision petition filed by petitioner I made the order directing that record pertaining to the revision petitioner dismissed by the Additional Sessions Judge as well as the Metropolitan Magistrate, be immediately collected.

(2) I have gone through the record pertaining to the revision petition as well as that which pertains to the original proceedings, which were held by the Metropolitan Magistrate. At my instance the learned counsel appearing for the petitioner has read out the evidence of the two witnesses who were examined at the trial. Public Witness . 1 Rashid Ahmed stated in his examination-in-chief that he had seen the petitioner in police custody. Permission was sought to cross-examine PW1. In the course of that cross-examination Public Witness . 1 stated that the knife Exhibit Public Witness . 1 had not been recovered in his presence. Besides PW. 1, only the investigating officer was examined by the prosecution to bring home the guilt to the accused. It is most unsafe to rely only on the statements of police officials to convict persons where other independent witnesses from the localities can be joined before carrying out raids or searches. There may be exceptional circumstances which may persuade the court that the statement of a police officer is so trustworthy that the conviction may be passed upon it.

(3) The evidence of the investigating officer has been, as observed earlier, read out before me. I find that injustice has been done to the petitioner. He should not have been convicted on the basis of the solitary testimony furnished by the deposition of the investigating officer. According to the said witness he had prior information that the petitioner was in possession of a spring actuated knife. He had with him the time for organising the raid. He could have joined in the raiding party more persons and in that eventuality Rashid Ahmed could not have been the only public witness to be examined in court. The investigating officer had also the additional information as to where exactly the petitioner could be found. He went in search of the petitioner and conveniently found him at the indicated spot. I am not persuaded that the prosecution produced evidence which could have sustained the conviction. I may also observe that the Code of Criminal Procedure, which has come into force as from the 1st of April, 1974 provides that an appeal will lie only where the sentence on conviction is that of more than three months. That being so where revision petitions are the only remedy on account of the limitations contained in the code, the learned Additional Sessions Judges will be more careful in appreciation of evidence. It is true that the revisional jurisdiction in its own scope does not postulate reappraisal of evidence. That, however, is an

aspect which must be appreciated in the light of limitation that no appeal lies against a conviction in respect of which the sentence imposed is that of less than three months. The court of revision becomes responsible for adjudicating upon all aspects that may be raised before it. I am sure that these observations will be borne in mind by the courts having revision- ary jurisdiction within section 397 of the new Code of Criminal Procedure. Petition allowed.

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