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Pawan Kumar and ors. Vs. State

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Court : Delhi

Decided On : Mar-22-2004

Reported in : 2004CriLJ2310; 110(2004)DLT611; 2004(75)DRJ84

Judge : R.S. Sodhi, J.

Acts : Probation of Offenders Act, 1958 - Sections 4; Indian Penal Code (IPC) - Sections 34 and 448

Appeal No. : Criminal Revision Petition 120/1999 and CRL.M.A. 2379/1999

Appellant : Pawan Kumar and ors.

Respondent : State

Advocate for Def. : Richa Kapoor, Adv.

Advocate for Pet/Ap. : Sanjay Sharma, Adv

Judgement :

R.S. Sodhi, J.

1. This revision petition is directed against the judgment dated 15.2.1999 of the Additional Sessions Judge, Shahdara, Delhi in Crl.A.14/1998 whereby the learned Judge dismissed the appeal while upholding the order of conviction, which appeal arose out of the order dated 7.10.1998 of the Metropolitan Magistrate whereby the

learned Magistrate has held the appellant/petitioners herein guilty under Section 448/34 IPC and sentenced them to a fine of Rs.1000/- each and in default of payment of fine to further undergo S.I. for 30 days each.

2. Learned counsel for the petitioners submits that he does not wish to challenge the conviction on merits but submits that this is a fit case where accused who are first offenders and have already deposited the fine can be considered and admitted to the benefits of the Probation of Offenders Act. He submits that the incident took place as far back as on 1993. The petitioners have been facing the ordeal of trial for over 11 years and there has been no untoward incident nor any complaint against them. Learned counsel for the State submits that in the facts and circumstances of this case she would not be averse to the benefits of the Probation of Offenders Act being extended to the petitioners.

3. Having heard learned counsel for the parties and having given my careful consideration to the material available on record, I am of the view that in the present case, the petitioners have suffered the agony of trial lasting for about 11 years. Besides that, they are in judicial custody and there is no allegation that the petitioners are previous convicts.

4. Keeping these circumstances in mind and the fact that the offence of which the petitioners have been convicted is not punishable with life imprisonment, they deserve the benefit of probation under Section 4 of the Probation of Offenders Act, 1958. In these circumstances, while maintaining the conviction of the petitioners, the sentence of imprisonment and fine as awarded to them is set aside.

5. Having regard to the circumstances of the case including the nature of the offence and the character of the offenders, it is considered expedient to release them on probation of good conduct. It is, thereforee, directed that the petitioners be released for a period of six months on their entering into a personal bond in the sum of Rs.5,000/- (rupees five thousand) each with one surety each in the like amount to appear and receive sentence as and when called upon during such period and, in the meantime, the petitioners shall keep peace and be of good behavior. The requisite bonds to be furnished by the petitioners with the sureties to the satisfaction of the trial court/CMM. The bonds are directed to be furnished be

furnished within a period of two weeks failing which the sentence awarded by the trial court shall come into effect. The fine which has already been paid is ordered to be treated as litigation expenses to the State.

6.With this modification, the order under challenge is upheld. The petition stands disposed of. Crl.M.A.2379/1999 is also disposed of.

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