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Lalit Kumar Vs. State

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Court : Delhi

Decided On : Mar-22-2004

Reported in : 2004CriLJ2320; 110(2004)DLT639; 2004(75)DRJ47

Judge : R.S. Sodhi, J.

Acts : Probation of Offenders Act, 1958 - Sections 6

Appeal No. : Criminal Revision Petition 155/2004 and Crl.M.A. 2228/2004

Appellant : Lalit Kumar

Respondent : State

Advocate for Def. : Richa Kapoor, Adv.

Advocate for Pet/Ap. : V.K. Vats, Adv

Judgement :

R.S. Sodhi, J.

1. This revision petition is directed against the judgment dated 091.03.2004 of the Additional Sessions Judge whereby the learned Judge has upheld the sentence qua the appellant/petitioner herein and disposed of the appeal which appeal arose out of the order of the learned Metropolitan Magistrate whereby the Magistrate has sentenced the appellant/petitioner herein to undergo R.I. of one year with a fine of

Rs.5000/- and in default of payment of fine to further undergo SI for one month.

2. Learned counsel for the petitioner submits that he does not wish to challenge the conviction on merits but submits that this is a fit case where accused can be considered and admitted to the benefits of the Probation of Offenders Act. He submits that the petitioner who is less then 21 years of age should be given the benefit of Section 6 of the Probation of Offenders Act. He submits that the incident took place as far back as in 1998 and the petitioner has been facing the ordeal of trial for over 6 years. Besides that he is in judicial custody since September, 2003.

3. Heard learned counsel for the State who has verified the fact that the petitioner at time when the offence was committed was less than 21 years of age. She 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 petitioner.

4. 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 petitioner has suffered the agony of trial lasting for about 6 years. Besides that, he has already undergone some period in custody and there is no allegation that the petitioner is a previous convict.

5. Keeping these circumstances in mind and the fact that the offence of which the petitioner has been convicted is not punishable with life imprisonment, he deserves the benefit of probation under Section 6 of the Probation of Offenders Act, 1958. In these circumstances, while maintaining the conviction of the petitioner, the sentence of imprisonment and fine as awarded to him is set aside.

6. Having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is considered expedient to release him on probation of good conduct. It is, thereforee, directed that the petitioner be released for a period of one year on his entering into a personal bond in the sum of Rs.10,000/- (rupees ten thousand) with one surety in the like amount to appear and receive sentence as and when called upon during such period and, in the meantime, the petitioner shall keep peace and be of good behavior. The requisite bonds to be furnished by the petitioner 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 if already paid is ordered to be treated as litigation expenses to the State.

7. With this modification, the order under challenge is upheld. The petition stands disposed of. CRL.M.A.2228/2004 also stands disposed of. dusty.

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