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Virender Singh Vs. State

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Court : Delhi

Decided On : Mar-15-2004

Reported in : 2004CriLJ2321; 110(2004)DLT632; 2004(74)DRJ60

Judge : R.S. Sodhi, J.

Acts : Electricity Act - Sections 39; Probation of Offenders Act, 1958 - Sections 4

Appeal No. : Criminal Revision Petition 866/2003

Appellant : Virender Singh

Respondent : State

Advocate for Def. : Richa Kapoor, Adv.

Advocate for Pet/Ap. : R.P. Luthra, Adv

Judgement :

R.S. Sodhi, J.

1. This revision petition is directed against the judgment dated 01.11.2003 of the Additional Sessions Judge whereby the learned Judge has declined to grant benefit of probation to the appellant/petitioner herein and while maintaining the conviction has modified the sentence awarded by the Metropolitan Magistrate from R.I. of one year with a fine of Rs.5000/- and in default of payment of fine, five

months S.I. to R.I. for two months with a fine of Rs.5000/- and S.I. for five months under Section 39 of the Indian Electricity Act.

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 incident took place as far back as on 1997. The petitioner has been facing the ordeal of trial for over 7 years and has now settled in the society as a useful citizen and there has been no untoward incident nor any complaint against him. He further submits that the petitioner has been on bail since 07.11.2003 after suffering incarceration for 15 days. 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 petitioner.

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 petitioner has suffered the agony of trial lasting for about 7 years. Besides that, he has already undergone some period in custody and there is no allegation that the petitioner is a previous convict.

4. 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 4 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.

5. 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 six months on his entering into a personal bond in the sum of Rs.10,000/- (rupees ten thousand) with two sureties 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.

6. With this modification, the order under challenge is upheld. The petition stands disposed of.

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