

Mangat Ram Vs. the State

Mangat Ram Vs. the State

SooperKanoon Citation : sooperkanoon.com/686734

Court : Delhi

Decided On : May-27-1982

Reported in : 1982CriLJ2044; 22(1982)DLT263; 1982RLR641

Judge : Charanjit Talwar, J.

Acts : [Prevention of Corruption Act, 1947](#) - Sections 5 and 5(2)

Appeal No. : Criminal Appeal No. 132 of 1975

Appellant : Mangat Ram

Respondent : The State

Advocate for Pet/Ap. : D.B. Sethi and; Z.A. Khalidi, Advs

Judgement :

Charanjit Talwar, J.

(1) After having maintained the conviction of the appellant Mangat Ram in Criminal Appeal No. 132 of 1975 vide and Judgment passed on 26th March, 1982 in Criminal Appeal No. 129 of 1975, I had considered it appropriate to hear the learned counsel for the parties on the question of sentence.

(2) Mr. D.R. Sethi, learned counsel for the appellant and Mr. Z. A. Khalidi, learned counsel for the State in their usual forth right manner, have placed before me the

rival contentions. Mr. Sethi's submission is that there are special reasons in this case for not sending the appellant to jail. Mr. Khalidi contested this proposition. He says that the appellant deserves no leniency and as such the sentence awarded to him by the Special Judge be maintained.

(3) Under Section 5(2) of the Prevention of Corruption Act the minimum sentence prescribed

(4) In support of his contention that there are special reasons in this case, Mr. Sethi submitted :-

(1) that the appellant has undergone mental agony and harassment during the proceedings which have gone on for 11 years; the incident is that of 4th March, 1971. The appellant was convicted by the trial court on 30th April, 1975, it was upheld by this Court on 26th March, 1982, almost after six years of the decision of the trial Court ;

(2) that the appellant has been on bail throughout and sending him to jail at this late stage would deprive his family members and his father, aged 90 years, who is dependent upon him, of their livelihood ;

(3) that the appellant is 42 years old; he is married and has seven children. He has already lost his job. He belongs to a weaker section (Scheduled Caste) of the Society ; during the course of these proceedings he has obtained his M. A. degree and he is now studying law degree in second year. During these years he has somehow been able to maintain himself and his family ; he has reformed himself and is aiming to become a lawyer ; and

(4) that he was made an instrument by the police to involve his co-accused but instead of making him a witness the Central Bureau of Investigation had gone back from its promise to do so.

The above are the special reasons, according to Mr. Sethi, for awarding lesser sentence to the appellant. It is also urged that the appellant can be extended the benefit of the provisions of the Probation of Offenders Act.

(5) Mr. Khalidi, learned counsel for the State submits that neither of the above grounds can be considered to be special; these grounds are common to all cases of this nature. He submits that on conviction an accused has to be dismissed from service, and most of the Government employees are married and have dependents. He further submits that delay in the disposal of the cases by Court's is not uncommon because of heavy rush of work in the Courts. He points out that the appeals filed in 1975 or 1976 arising out of corruption cases are presently on the board of this Court for final hearing. According to him there has been no undue delay which warrants awarding of lesser sentence.

(6) Mr. Khalidi in support of his contention that mere delay in the trial or in disposal of the appeal cannot be said to mean that the accused did not have a fair trial, cited *State of Maharashtra v. Champalal Punjaji Shah* : 1981 CriLJ1273 , wherein it was observed

'A delayed trial is not necessarily an unfair trial, if nothing is shown and there are no circumstances entitling the Court to raise a presumption that the accused had been prejudiced.....'

(7) At the outset I may note that before me it is not being urged that because of the delayed trial, the appellant was entitled to discharge or acquittal because the delayed trial had prejudiced him in his defense. The rule of law enunciated in the above-cited case is not applicable herein. The law applicable to this case is the one laid down by their Lordships in *B. C. Goswami v. Delhi Administration*, : 1974 CriLJ243 . In the said case the proceedings in all from the beginning up to the decision by the Supreme Court took seven years. It was held :-

'IN the present case, after weighing the considerations already noticed by us and the fact that to send the appellant back to Jail now after 7 years of the agony and harassment of these proceedings when he is also going to lose his job and has to earn a living for himself and for his family members and for those dependent on him, we feel that it would meet the ends of justice if we reduce the sentence of imprisonment to that already undergone but increase the sentence of fine from Rs. 200.00 to Rs. 400.00 . Period of imprisonment in case of default will remain the same.'

(8) The principle deducible from the above-cited authority of the Supreme Court is that long period of about 10 years during which the convict had to undergo mental agony and harassment of the proceedings, would be a special reason in that case.

(9) There is another reason which has impressed me in the present case. The appellant has no doubt tried to reform himself. Although belonging to a weaker section of the society, he has during all this period, when he was facing these difficulties, pursued his studies at this age of 42 years and is aspiring to become a lawyer. The minimum sentence of one year if awarded would disrupt his studies completely and destroyed his future career. I, however, do not agree with Mr. Sethi that the provisions of Probation of Offenders Act are applicable in the present case.

(10) The authority, S. Natarajan v. State of Mysore, , cited by Mr. Sethi, is distinguishable on its own facts. In the said case, the offence was eventually found to be under Section 409, Indian Penal Code. The charge under Section 5(2) read with Section 5(1)(c) of Prevention of Corruption Act was not really made out.

(11) Keeping in view the facts of the case I sentence the accused to undergo rigorous imprisonment for three months on each count. I maintain the sentence of fine as also the period of sentence in default of payment of fine. The substantive sentences to run concurrently.