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Abdul Badood Vs. State

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Court : Delhi

Decided On : May-01-1986

Reported in : 38(1989)DLT112

Judge : Yogeshwar Dayal, J.

Acts : Code of Criminal Procedure (CrPC) , 1973 - Sections 251; Delhi Police Act, 1861 - Sections 92

Appeal No. : Criminal Miscellaneous (Main) Appeal Nos. 92 and 93 of 1986

Appellant : Abdul Badood

Respondent : State

Advocate for Pet/Ap. : K.B. Andley and; N.K. Handa, Advs

Judgement :

Yogeshwar Dayal, J.

(1) These two revision petitions arc-directed against the orders of learned Metropolitan Magistrate dated 15th April, 1985 appearing in the Entry of summary trial register whereby for an offence under Sections. 92/93/97 of the Delhi Police Act, the petitioner was convicted on the basis of pleading of guilty and sentenced to fine of Rs. 80.00 and in default of fine simple imprisonment for 7 days and in a similar entry of summary trial register the petitioner .was convicted for an offence

under, Sections 120A/132 of the Indian Railway Act and was sentenced to fine of Rs. 150.00 and in default of fine simple imprisonment for I 'days. Both the orders are dated 15th April, 1985.

(2) .ONE of the points urged by the learned counsel for the petitioner is that procedure prescribed under Section 251 of the Code of Criminal Procedure of trial of summons cases was not followed. It is submitted that the particulars of offences of which accused was charged were. not even put to the accused and merely Sections of Indian Railway Act and Delhi Police Act are quoted and pleading of guilty is recorded and sentence passed. This submission of learned counsel for the petitioner is not disputed by learned counsel for the State and it is conceded that provisions of Section 251 were not complied with. The order of the learned Metropolitan Magistrate was affirmed by the order of learned Additional Sessions Judge dated 7th November, 1985.

(3) In the case of Ram Chand v. The State 64, P.L.R., 1962 page 906. it is held by Gurdev Singh, J. that even in petty cases the accused is entitled to a fair trial in accordance with law and the Magistrate should avoid the temptation of resorting to short-cuts. In the present case the illiterate porter was not even told for what offence he has been charged and the porter was still in custody of the police when his pleading of guilty was fecorded. It is most unfair from his point of view. Again the pleading of guilty should not have been recorded while the petitioner was still in custody of the police. He should be bailed out and should be given time for thinking .then record the conviction. Since there was grave violation of provisions of Section 251 of the Code of Criminal Procedure, I have no option but to set aside the orders of the learned Metropolitan Magistrate as affirmed by learned Additional Sessions Judge, Mr. Handa on behalf of the State submitted that the matter should be remanded to trial court in accordance with law. I am afraid, I do not agree with this submission In the aforesaid case also, Gurdev Singh, J. after quashing the conviction held that there was no justification for re-trial. In such a petty case, I am not inclined to order retrial. Result is petitions succeed and the impugned orders are set aside and the fine. if paid, is directed to be refunded.

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