

Sita Ram Vs. State

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Court : Delhi

Decided On : Oct-27-1993

Reported in : 1994(1)Crimes848; 1994(28)DRJ193

Judge : Anil Dev Singh, J.

Acts : Railway Act, 1890 - Sections 145

Appeal No. : Criminal Revision Appeal No. 122 of 1992

Appellant : Sita Ram

Respondent : State

Advocate for Pet/Ap. : M.R. Chawla and; B.T. Singh, Advs

Judgement :

Anil Dev Singh, J.

(1) This is a revision petition directed against the judgment and order of Mr.S.L.Bhayana.learned Additional Sessions Judge dated May 9,1992 whereby the order of the learned Railway Magistrate dated November 11, 1990 convicting and sentencing the petitioner under Section 145 of the Railways Act, 1989 was upheld.

(2) According to the report of the Si Surat Singh, filed before the learned Railway Magistrate against the petitioner under Section 145 of the Railway Act, the petitioner is alleged to have abused one Mukthiar Singh, in the vicinity of East Passenger Hall of Delhi Main Railway Station on November 1, 1990. In the report, there is a reference to earlier incident of October 28,1990 on which date the petitioner is alleged to have administered beating to Mukthiar Singh outside the railway station. Along with the report statements of Ishwar Pal and Mukthiar Singh recorded under Section 161 of the Code of Criminal Procedure were also filed. Both the persons in their statements speak of the incident of October 28,1990. It is only in the report of Asi Surat Singh that a reference to the incident of November 1,1990 is made. The petitioner on being produced before the learned Railway Magistrate on November 1,1990 pleaded guilty. On the basis of the said plea, the learned Railway Magistrate convicted the petitioner under Section 145 of the Indian Railways Act and sentenced him to pay a fine of Rs.500.00 . Aggrieved by the order of the learned Railway Magistrate,petitioner filed an appeal before the learned Additional Sessions Judge inter alias on the ground that plea of guilty was not properly recorded by the learned Railway Magistrate but the learned Additional Sessions Judge upheld the conviction and sentence of the petitioner. It may be mentioned that the appeal of the petitioner was treated as revision by the learned Additional Sessions Judge as appeal was not maintainable in view of Section 375 of the Code of Criminal Procedure. The petitioner has now preferred the present second revision which is again not maintainable.

(3) Notwithstanding the non-maintainability of the second revision petition,I am of the opinion that it is a fit case for invoking the provision of Article 227of the Constitution as the order ex facie of the learned Additional Sessions Judge is erroneous and has led to miscarriage of justice. A perusal of the order shows that the learned Additional Sessions Judge considered and dealt with the incident of October 28,1990 which admittedly took place outside the precincts of the railway station. Learned Additional Sessions Judge has not discussed or even noticed the incident of November 1,1990.

(4) In these circumstances the impugned order dated May 9,1992 is set aside and the case is remitted back to the learned Additional Sessions Judge for passing

fresh orders in accordance with law. The petitioner may appear before the learned Sessions Judge on November 22, 1993 who will allocate the matter to another Additional Sessions Judge as Mr.S.L.Bhayana is stated to be not sitting on the criminal side.

(5) With these observations, the revision petition stands disposed of.

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