

Rakesh Singh Vs. State

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Court : Delhi

Decided On : Mar-20-2004

Reported in : 111(2004)DLT37

Judge : R.S. Sodhi, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 279 and 304A; [Probation of Offenders Act, 1958](#) - Sections 4 and 12

Appeal No. : Criminal Revision Petition No. 293 of 1998

Appellant : Rakesh Singh

Respondent : State

Advocate for Def. : V.K. Malik, Adv.

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

Judgement :

R.S. Sodhi, J.

1. This revision petition is directed against the judgment dated 29.7.1998 of the Additional Sessions Judge whereby the learned Judge while upholding the sentence has dismissed the appeal, which appeal arose out of the order of the Metropolitan Magistrate whereby the learned Magistrate held the accused guilty

under Sections 279/304-A, IPC and vide separate order sentenced him to undergo imprisonment for six months under Section 279 and imprisonment for one year with a fine of Rs. 500/- and in default of payment of fine to further undergo S.I. for two months under Section 304-A, IPC. Both the sentences of imprisonment were directed to go together.

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 relies upon a judgment of the Supreme Court in Aitha Chander Rao v. State of Andhra Pradesh 1981 SCC (Cri.) 637, wherein it has been held that in a case where the accused is released on probation, his conviction should not affect his service as per Section 12. He submits that the incident took place as far back as on 1988 and the petitioner has been facing the ordeal of trial for over 14 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 3.9.1998 after suffering incarceration for over one-and-a-half months. Learned Counsel for the State submits that in the facts and circumstances of this case he 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 14 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, which shall not affect his service career, 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, therefore, 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 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. CrI. Rev. P. 293/1998 stands disposed of.

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