

Nathu Ram and Mange Ram Vs. State

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Court : Delhi

Decided On : Apr-30-2004

Reported in : 2004CriLJ3109; 111(2004)DLT582; 2004(75)DRJ38

Judge : R.S. Sodhi, J.

Acts : [Probation of Offenders Act, 1958](#) - Sections 4; Indian Penal Code (IPC) - Sections 120B and 420

Appeal No. : Criminal Revision Petition 876/2003

Appellant : Nathu Ram and Mange Ram

Respondent : State

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

Advocate for Pet/Ap. : Lalit Kumar, Adv. for Petitioner no.1 and; R.P. Luthra, Adv. for Petitioner no.

Judgement :

R.S. Sodhi, J.

1. This revision petition is directed against the judgment and order dated 3.11.2003 of the Additional Sessions Judge, Delhi in CrI.A.16/2001, whereby the learned Judge while adjudicating on the judgment and order dated 28.3.2001 and

10.4.2001 of the Metropolitan Magistrate has dismissed the appeal of the petitioners herein. The learned Metropolitan Magistrate convicted the petitioners under Section 420/120-B IPC and sentenced them to undergo three years R.I. together -2- CRL REV P 876/2003 with fine of Rs.5,000/- each and to further undergo SI for six months each under Section 420 IPC and to undergo R.I. for three years each under Section 120-B IPC. Both the sentences were directed to run concurrently.

2. Counsel for Nathu Ram - petitioner no.1 as also counsel for Mange Ram - petitioner no.2 state that they do not wish to challenge the judgment of conviction on merits but confine their arguments only to the question of sentence. Counsel submit that Nathu Ram is above 70 years age and Mange Ram is above 65 years of age. The incident took place in the year 1984 and since then the petitioners have already undergone the ordeal of trial for 20 years. Besides this they have already undergone 6 months of the sentence of imprisonment.

3. Counsel pray that in view of the antecedents of the petitioners the petitioners may be admitted to the benefit of Probation of Offenders Act. Learned counsel for the State submits that in the facts and circumstances of this case he would not be averse to the benefit of the Probation of Offenders Act being extended to the petitioners.

4. 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 -3- CRL REV P 876/2003 present case, the petitioners have suffered the agony of trial lasting for about twenty years and there is no allegation that the petitioners are previous convicts. Keeping these circumstances in mind and the fact that the offence of which the petitioners have been convicted is not punishable with life imprisonment, they deserve the benefit of probation under Section 4 of the [Probation of Offenders Act, 1958](#).

5. In this circumstance, while maintaining the conviction of the petitioners, the order of sentence of imprisonment and fine is set aside. Having regard to the circumstances of the case including the nature of the offence and the character of the offenders, it is considered expedient to release them on probation of good

conduct. It is, therefore, directed that the petitioners be released for a period of two years on their entering into a personal bond in the sum of Rs.10,000/- (rupees ten thousand) each with one surety each in the like amount to appear and receive sentence as and when called upon during such period and, in the meantime, the petitioners shall keep peace and be of good behavior. The requisite bonds to be furnished by the petitioners and the -4- CRL REV P 876/2003 surety to the satisfaction of the trial court/CMM/ACMM. The fine, if already paid shall be treated as litigation expenses to the State.

6. With this modification, the order under challenge is upheld. The petition stands disposed of. Fresh bonds and surety, as directed to be furnished, shall be furnished within a period of two weeks failing which the sentence awarded by the trial court shall come into effect.