

Manmohan Singh Vs. the State

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SooperKanoon Citation : sooperkanoon.com/692146

Court : Delhi

Decided On : Jan-14-1971

Reported in : 1971CriLJ1010

Judge : Pritam Singh Safeer, J.

Appellant : Manmohan Singh

Respondent : The State

Judgement :

ORDER

Pritam Singh Safeer, J.

1. This judgment will dispose of Criminal Revisions Nos. 129 and 216 of 1969.

The petitioner who is common to these two revision petitions was to conform to the requirements of law and he infringed the provisions of Sections 416 and 417 of the Delhi Municipal Corporation Act, 1957. The continuing infringement was discovered firstly on the 5th of July, 1966 at 11.50 A. M. and then on the 4th of January, 1967 at 11 A. M.

2. If a person is found contravening the provisions mentioned above, then he will be liable to be punished in accordance with Section 461 of the Delhi Municipal Corporation Act, 1957.

3. The 12th Schedule to the said Act mentions Sections 416 and 417 in the first column and in the third column provides that a person guilty of a breach of the provisions of Section 416 of the said Act may be punished with fine or imprisonment and the fine may go up to Rs. 5000/- In case of the breach of the provisions of Section 417 the fine can be imposed up to Rs. 1000/-.

4. The accused/petitioner in these two cases when produced before the court on the 17th of April, 1968, confessed his guilt. Thereupon he was convicted and sentenced to a fine of Rs. 250/-in default whereof he was to undergo R.I. for one month with which Criminal Revision No. 129 of 1969 is concerned. Criminal Revision No. 216 of 1969 covers the initial conviction in respect whereof the petitioner (being the same person in both these petitions) was sentenced to pay a fine of Rs. 200/- in default of payment whereof he was to undergo R.I. for one month.

5. In spite of his having confessed the guilt, the petitioner preferred two appeals before the learned Sessions Judge, Delhi, and urged that the charge in respect whereof he made his confessions on each occasion was not in accordance with Section 242 of the Criminal Procedure Code. The said provision is preceded by Section 225, which is:

No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material unless the accused was in fact misled by such error or omission and it has occasioned a failure of justice.

6. It was never urged and could not have been urged in the circumstances disclosed by the two cases that the petitioner had in fact been misled by any error or omission in the charge stated to him.

7. The Licensing Officer (Factories) Municipal Corporation of Delhi had found the present petitioner on both the occasions manufacturing gates and grills with electric welding plant and had, therefore, lodged the complaints which led to the respective prosecutions. The petitioner at all stages knew what he was being prosecuted for. He knew his guilt. He made the confession in respect thereof.

8. The learned Sessions Judge found that the trial court had given notice of the offence to the petitioner when he was in the dock to the effect that he was found running the trade of manufacturing gates and grills with electric welding plant without the municipal license. It cannot be said that that was not a charge clearly stating to the petitioner that he had committed the offence as covered by Sections 416 and 417 of the Delhi Municipal Corporation Act, 1957. The distinction which was sought to be drawn before the Sessions Judge between the establishment of a trade and the running thereof was a meaningless distinction. A person may continue to run a particular manufacturing trade for years. The running of a trade can only be after it has been established. I do not find that the charge was defective.

9. In order to take any benefit of the provisions of Section 242 of the Criminal Procedure Code it was necessary for the petitioner to establish as a matter of fact that any failure of justice had been occasioned by any error or defect in stating the charge. The petitioner confessed his guilt and led no evidence.

10. In the circumstances of this case it could not have been pleaded that the accused had been in fact misled by any error or omission in the charge and that any failure of justice had been occasioned. These petitions are dismissed.