

Tejpal Singh Vs. State

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Court : Delhi

Decided On : Jun-02-2002

Reported in : 101(2002)DLT99b

Judge : R.S. Sodhi, J.

Acts : Indian Penal Code (IPC) - Sections 376 and 451

Appeal No. : Criminal Appeal No. 244 of 98

Appellant : Tejpal Singh

Respondent : State

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

Advocate for Pet/Ap. : R.P. Luthra, amices Curiae

Judgement :

R.S. Sodhi, J.

1. This Criminal Appeal is directed against the judgment and order dated 4.4.1998 of the learned Additional Sessions Judge in Sessions Case No. 95/96 whereby the learned Additional Sessions Judge held the appellant guilty under Section 376 and 451 IPC and vide a separate order dated 6.4.1998 sentenced the appellant to undergo rigorous imprisonment for 84 months with a fine of Rs. 10,000/- and in

default of payment of fine to further undergo R.I. for a period of 12 months under Section 376IPC and further to undergo R.I. for 24 months with a fine of Rs.2000/- and in default of payment of fine to further undergo R.I. for 4 months under Section 451 IPC. Both the sentences were directed to run concurrently.

2. When the matter called out for hearing, nobody appeared for the appellant. The Court cannot plead with Advocates to come and attend to their cases. It is for the appellant to ensure that his counsel is present in the Court if he wants the case to be represented by him. Since this case has been shown on the list for a sufficient amount of time, it can brook no further delay. I, therefore, appoint Mr.R.P.Luthra as amicus Curiae, who is present on behalf of Delhi Legal Service Authority to assist the Court. He has gone through the record of the case and says that he does not need more time.

3. With the assistance of the learned amicus Curiae and learned counsel for the State, I have gone through the record of the case as also the depositions and the judgment under challenge. Learned amicus Curiae states that he is not in a position to challenge the order of conviction. I, therefore, confirm the order of conviction. However, on the question of sentence, it is argued by the learned counsel that the appellant has suffered 3-1/2 years actual incarceration. He has now got married and is raising a family. Besides that he is also a support to his old parents, as he is the only earning member of the family. The occurrence is of 15.2.1996 and he has been on bail since 25.5.2001. Since then the appellant has already suffered the ordeal of trial for nearly six years. Learned counsel also submits that there has been no complaint about his having belied the trust bestowed upon him by this Court. He further submits that he is also not a previous convict and has by now assimilated in the mainstream of society as a useful citizen, therefore, no useful purpose would be served in requiring him to undergo the remaining portion of his sentence at this belated stage. Learned counsel for the State has no objection if the sentence of imprisonment of the appellant is reduced to that already undergone.

4. Having heard learned counsel for the parties and in view of what has been stated by learned counsel for the State, I am of the view that the ends of justice

would be met if the sentence of imprisonment of the appellant is reduced to the period already undergone. I order accordingly. With this modification, Criminal Appeal No.244/98 is disposed of.

5. The appellant is on bail. His bail bond and the surety shall stand discharged. The trial court record be sent back forthwith.

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