

Narender Vs. State

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Court : Delhi

Decided On : May-16-2005

Reported in : 121(2005)DLT355; 2005(82)DRJ651

Judge : Manju Goel, J.

Acts : Indian Penal Code (IPC) - Sections 356 and 411; Code of Criminal Procedure (CrPC) - Sections 379(3) and 482

Appeal No. : Criminal M. (C). No. 566/2005

Appellant : Narender

Respondent : State

Advocate for Def. : Sunil Sharma, Adv.

Advocate for Pet/Ap. : Sanjay Sharma, Adv

Disposition : Petition dismissed

Judgement :

Manju Goel, J.

1. The petitioner was facing prosecution for the offences under Sections 356/411 IPC. He was in custody from 6.8.2003 till the case came up before the Metropolitan Magistrate on 5.7.2004. On that date, the petitioner offered to plead

guilty. By then six witnesses had already been examined. However, the other accused Vikram was absent on that date. The learned ACMM accepted the plea of guilt and convicted the petitioner for the offence under Sections 356/411 IPC and sentenced him to imprisonment for the period he had already undergone in custody during trial. The petitioner subsequently challenged the order of conviction and sentence in a revision petition being No. 125/2004 in the court of Shri Chandra Gupta, Addl. Sessions Judge, Karkardooma Courts, Delhi. The Addl. Sessions Judge decided the revision petition vide the judgment dated 14.12.2004. It appears from the order under challenge that the grounds taken before the Addl. Sessions Judge was that after the petitioner had pleaded not guilty on the day the charge was framed, the Magistrate was bound to record all the prosecution witness before convicting the petitioner. The Addl. Sessions Judge, inter alia, observed that the plea of guilt was voluntary. The Addl. Sessions Judge also observed that there is no infirmity in the procedure adopted by the Metropolitan Magistrate, namely, of convicting and sentencing the petitioner on his plea of guilt on 5.7.2004. The revision was dismissed. The present petition seeks the same relief and on the same grounds. This is, therefore, a second revision petition under the garb of Section 482 Code of Criminal Procedure (in short 'Cr.P.C. '), which is barred by the provisions of Section 379(3) Cr.P.C. The Supreme Court, in its recent judgment in the case of Kailash Verma v. Punjab State Civil Supplies Corporation and Anr. 2005 1 AD SC 281 has also reiterated that the second revision being barred, the same relief as available in revision cannot be granted in exercise of powers under Section 482 Cr.P.C.

2. Even otherwise, I find no infirmity in the course adopted by the Metropolitan Magistrate. There is no provision anywhere in the Cr.P.C. which bars an accused from pleading guilty on a day subsequent to the day on which the charge was framed. Having pleaded guilty the petitioner could only have expected a sentence. The petitioner has availed the full benefit of his plea of guilt because he was released from jail on a sentence equal to the period already spent in custody.

3. The petitioner's counsel argues, as a last resort, that the procedure adopted by the Metropolitan Magistrate was of plea bargaining which is not available under the Indian legal system and, therefore, is bad. There is absolutely no force in this

plea of the petitioner's counsel. The cited judgment of Kasambhai Abdulrehmanbhai Sheikh etc. v. State of Gujarat and Anr. reported as : 1980 CriLJ553 disapproved an order of sentence below the minimum prescribed by law on the ground that the accused had confessed his guilt and was entitled to a lighter sentence. Again in the case of State of Uttar Pradesh v. Chandrika reported as : 2000 CriLJ384 , the Supreme Court disapproved the idea of reduction in sentence on account of acceptance of guilt. The present position is entirely different. The Magistrate has not imposed a sentence which is lower than any statutory minimum. The petitioner had already undergone nearly 11 months in custody. There is nothing to show that the petitioner had been dealt with with any leniency. It is not a case of plea bargaining.

4. The petitioner himself is the beneficiary of the order and, therefore, he cannot challenge the same. The petition is accordingly dismissed.

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