

Santosh Kumar Vs. State

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Court : Delhi

Decided On : Jul-12-2005

Reported in : 2005(83)DRJ411

Judge : R.S. Sodhi, J.

Acts : Code of Criminal Procedure (CrPC) - Sections 427; ;Indian Penal Code (IPC) - Sections 379 and 411

Appeal No. : Criminal Revision Petition 527/2005

Appellant : Santosh Kumar

Respondent : State

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

Advocate for Pet/Ap. : Rajesh Mahajan, Adv

Judgement :

R.S. Sodhi, J.

1. This revision petition is directed against the judgment dated 15.02.2005 of the learned Additional Sessions Judge in CrI.A.47/04, upholding the order dated 08.03.2004 of the learned Metropolitan Magistrate, whereby the learned Magistrate held the petitioner guilty under Section 411 IPC and sentenced him to

undergo R.I. For two years with a fine of Rs.500/- and in default of payment of fine to further undergo S.I. for one month.

2. Learned Counsel for the petitioner confines himself only to the question of sentence, inasmuch as that invokes this courts power under Section 427 of the Code of Criminal Procedure to direct that sentence of imprisonment in all cases in which he has been convicted to run concurrently. From the nominal roll I find that the petitioner has been convicted in a case arising out of F.I.R. No. 194/2003 under Section 279, 338 IPC. He has also been convicted in case F.I.R. No.192/2003 under Section 397/411 IPC.

3. In view of the nature of the offence and his propensity, I do not think it proper to exercise the power under Section 427 of the Code of Criminal Procedure. However, in Crl.Rev.P.527/2005 the petitioner has already undergone one year and four months of incarceration and he has also earned a remission of about four months. The unexpired period according to counsel is approximately three months.

4. Looking at the facts of the case that he is also required to undergo sentence in other cases, it would be appropriate if the sentence of imprisonment in the present case is reduced to the period already undergone in case F.I.R. No.192/2003 under Section 397/411 IPC.

5. Counsel for the State has no objection to the sentence of imprisonment of the petitioner being reduced to the period already undergone. therefore, while upholding conviction and maintaining sentence of fine and imprisonment in lieu thereof, I reduce the sentence of imprisonment of the petitioner to the period already undergone.

6. With this modification, Criminal Revision No. 527/2005 is disposed of. The petitioner be released forthwith, if not wanted in any other case.