

Mahabir Singh Vs. State

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Court : Delhi

Decided On : Sep-11-2000

Reported in : 86(2000)DLT496b

Judge : R.S. Sodhi,J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - 279 and 338

Appeal No. : Crl. M. No. 1635/2000 and 1634/2000

Appellant : Mahabir Singh

Respondent : State

Advocate for Def. : Mr. M.S. Butalia, Adv.

Advocate for Pet/Ap. : Mr. R.P. Kasana, Adv

Judgement :

ORDER

Crl. M. No. 1635/2000

1. Allowed subject to just exceptions.

Crl. Rev. No. 352/2000

Notice. Learned counsel for the State accepts notice.

Admit.

2. Heard counsel for the petitioner as also learned counsel for the State. With the assistance of the learned counsel for the petitioner, I have been taken through the record of the case and also gone through the judgment under challenge. A perusal of the same shows that there is no infirmity in the conviction. I, therefore, uphold the order dated 1.9.2000 of the learned Additional Sessions Judge in Crl. Appeal No. 20/2000. However, on the question of sentence, learned counsel for the petitioner submits that the petitioner has been sentenced for a period of three months on account of having been found guilty under Section 279 IPC with a fine of Rs. 500/-. The petitioner has also been sentenced for a period of three months for an offence under Section 338 IPC with a fine of Rs.500/-. Learned counsel submits that this was an accident and there was no motive and that the petitioner is a first offender, he has got no criminal history and, therefore, this is a good case where the provisions of Section 4 of the Probation of Offenders Act, 1958 are to be applied. I have heard learned counsel for the State, who is also of the same view.

3. In this view of the matter, in the present case, the petitioner has suffered the agony of trial for the last six years. Besides that, he has already undergone a period of 10 days in custody. There is no allegation that the petitioner is a previous convict. Keeping in view the circum-stances and the fact that the offence of which the petitioner has been convicted and the fact that the offence is not punishable for life imprisonment, he deserves the benefit under Section 4 of the Probation of Offenders Act.

4. In the circumstances, while maintaining the conviction of the petitioner, the sentence of imprisonment and fine as awarded to him is set aside. Having regard to the facts and circumstances including the nature of the offence and the character of the offender, it is considered expedient to release him on probation of good conduct and, therefore, it is directed that the petitioner be released for a period of one year from the date of his release on his entering into a personal bond in the sum of Rs.10,000/- (Rupees ten thousand) with one surety in the like amount to appear and receive sentence as and when called for during such period

and, in the meantime, the petitioner shall keep peace and be of good behaviour. The requisite bond be furnished by the petitioner and the surety to the satisfaction of the trial court/CMM. The fine, if already, paid, is directed to be treated as compensation to be paid to the injured.

5. With this modification, the order under challenge is upheld. The criminal revision petition stands disposed of.

DASTI.

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