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Mithan Lal Vs. State

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Court : Delhi

Decided On : Aug-21-2000

Reported in : 2000(57)DRJ48

Judge : R.S. Sodhi, J.

Acts : Indian Penal Code (IPC), 1860 - Sections 379

Appeal No. : Criminal Revision No.340 of 1999

Appellant : Mithan Lal

Respondent : State

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

Advocate for Pet/Ap. : Mr. Sanjay Abbot, Adv

Judgement :

R.S. Sodhi, J.

1. By this Criminal Revision Petition No. 340 of 1999 the petitioner seeks to challenge the judgment and order dated 6.9.1999 of the Additional Sessions Judge, Delhi, in Criminal Appeal No. 4 of 1999 by which judgment the learned Additional Sessions Judge upheld the order of the Metropolitan Magistrate dated 4.12..1996 in case arising out of FIR No. 99 of 1992, under Section 379/411 IPC,

Police Station, Hauz Khas. The learned Metropolitan Magistrate while holding the petitioner guilty of an offence under Section 379, sentence the petitioner to undergo simple imprisonment for two years together with a fine of Rs. 2,000/ and in default of payment of fine a further simple imprisonment of six months. The learned Additional Sessions Judge, while upholding the conviction, modified the sentence to one year simple imprisonment with a fine of Rs. 2,000/- and in default of payment of fine a further simple imprisonment of two months.

2. Learned counsel for the petitioner urged before me that the order of the learned Additional Sessions Judge dated 6.9.1999 is bad, inter alia, on the ground that there are contradictions in the statements of PW-2, PW-4 and PW-5 and, thereforee, in view of these contradictions there can be no reliance placed on their testimony. He also challenged the fact that the accused could not be identified in court by the complainant, PW-4, which was according to him, sufficient ground to acquit the petitioner.

3. On perusal of the judgment under challenge as also the evidence on record, I find that the grounds of attack are identical to those made before the learned Additional Sessions Judge. The learned Additional Sessions Judge by his judgment dated 6.9.1999 has carefully analysed each and every contention raised by the learned counsel before him and I find no infirmity in the same. The reasoning of the learned Additional Sessions Judge is sound and the learned counsel has not been able to show how the judgment under challenge is perverse or the reasoning suffers from any legal infirmity or that it is contrary to the evidence on record. I, thereforee, uphold the judgment and order of the learned Additional Sessions Judge dated 6.9.1999 in Criminal Appeal No. 4 of 1997 inasmuch as the prosecution has been able to prove beyond doubt that the petitioner is guilty of an offence committed under Section 379 IPC. Coming to the question of sentence, it is argued by the learned counsel that the offence was committed on 18.3.1992 and that the petitioner has already undergone substantial period of sentence. He submitted that the petitioner is on bail and that no useful purpose would be served in requiring him to go back and serve out the remaining portion of his sentence which has already been reduced by the learned Additional Sessions Judge to one year. Learned counsel for the petitioner also submitted that

since the fine has already been paid and the petitioner suffered the trauma of proceedings for over eight years, the petitioner has been punished sufficiently.

4. I heard learned counsel for the State on this point who does not oppose further reduction of sentence. Accordingly, in the facts and circumz stances of this case, I deem it appropriate to reduce the sentence of the petitioner to the period already undergone. With this modification, I uphold the judgment and order dated 6.9.1999 of the learned Additional Sessions Judge. The petitioner, who is on bail, need not surrender. The bail bond and the sureties shall stand discharged. Criminal Revision No. 340 of 1999 stands disposed of. The lower court record be sent back forthwith.

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