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State Vs. Shiv Charan

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SooperKanoon Citation : sooperkanoon.com/705462

Court : Delhi

Decided On : Mar-19-1998

Reported in : 1998CriLJ2776; 76(1998)DLT873; 1998(45)DRJ289; 1998RLR324

Judge : Dalveer Bhandari, J.

Acts : Code of Criminal Procedure (CrPC) , 1973 - Sections 401; Delhi Police Act, 1978 - Sections 140

Appeal No. : Criminal Revision No. 207 of 1980

Appellant : State

Respondent : Shiv Charan

Advocate for Def. : Santosh Kohli, Adv.

Advocate for Pet/Ap. : R.P. Luthra and; M.S. Butalia, Advs

Disposition : Petition dismissed

Judgement :

Dalveer Bhandari, J.

1. This revision petition is directed against the judgment and order of the Metropolitan Magistrate Delhi dated 14.1.1980 in which he had discharged the accused under Sections 218/468/466/420 IPC. Brief facts which are necessary to

dispose of this revision petition are recapitulated as under:-

The respondent Shiv Charan was posted in traffic Police who had been issuing bogus traffic challans to the drivers, owners of public motor vehicles showing therein falsely that their documents viz. driving licences, fitness certificates, etc. are impounded and attached with the so-called forged challans, while such documents never existed with the parties, or the same were time barred. The respondent enabled some of the drivers of the public vehicles to operate without valid papers and this helped in evading their prosecution against some consideration and with ulterior motives. The respondent was prosecuted under the aforesaid sections. The Metropolitan Magistrate prima facie found a case against the respondent Shiv Charan under Section 218 IPC. According to the learned Metropolitan Magistrate, Section 140 of the Delhi Police Act puts a bar to the suits and prosecution against the Police officers. According to the learned Metropolitan Magistrate, Section 140 of the D.P. Act, provides a mandatory bar to the prosecution against a police official if the prosecution has been filed against such a person after more than three months or within a year, with the previous sanction of the Administrator. The instant case has been instituted in the court on 16.4.1979 while the alleged act has been committed in the year 1977. Thus the institution of the prosecution is obviously time barred. Accordingly, the respondent Shiv Charan, accused, was given benefit of the new provisions and was consequently discharged. Against the order of discharge, the Delhi Administration has preferred this revision petition in which it is mentioned that the learned Metropolitan Magistrate failed to consider that the case against the respondent Shiv Charan related to his act done prior to the commencement of Delhi Police Act, and as such, any investigation commenced prior to the coming into operation of the Delhi Police Act, the same had to be dealt with according to the procedure then laid. Though I find some force in the arguments of the learned counsel appearing for the Delhi Administration, but I do not think it necessary to decide the controversy in this case for the simple reason that the incident is more than 21 years old.

Looking to the totality of facts and circumstances of this case, in the interest of justice, because of gross delay in deciding this revision petition, I do not think any interference is called for against the order of the Metropolitan Magistrate. The

revision-petition is accordingly dismissed.

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