SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Naresh Datt Sharma Vs. State

Naresh Datt Sharma Vs. State

SooperKanoon Citation : sooperkanoon.com/706420

Court : Delhi

Decided On : Sep-28-2005

Reported in : 124(2005)DLT322; 2005(84)DRJ390

Judge : R.S. Sodhi, J.

Acts : Probation of Offenders Act, 1958 - Sections 4(1); Indian Penal Code (IPC) - Sections 409 and 477A; Code of Criminal Procedure (CrPC) - Sections 360

Appeal No. : Criminal Revision Petition 182/2005 and Criminal Misc. Appln. 5840/2005

Appellant : Naresh Datt Sharma

Respondent : State

Advocate for Def. : M.N. Dudeja, Adv.

Advocate for Pet/Ap. : D.R. Jain and; Neeraj Jain, Advs

Judgement :

R.S. Sodhi, J.

1. Crl.Rev.P.182/2005 is directed against the order dated 15.3.2005 of the Additional Sessions Judge in Crl.A.No.6/2004 whereby the learned Judge has dismissed the appeal while modifying the sentence of imprisonment from two

years to one year under Section 409 IPC as also under Section 477A IPC.

2. It is submitted by counsel for the petitioner that he does not wish to challenge the order of conviction on merits. He confines his arguments only to the question of sentence. He submits that the petitioner is an old man and is a heart patient and admitted to hospital and has already lost his job. Counsel prays that the petitioner be given the benefit of Section 360 Cr.P.C.

3. Heard counsel. Vide order dated 08.08.2005, a report of the Probation Officer was called for, which has been placed on record. From a perusal of the report it appears that the petitioner is educated, well behaved and sincere old man. The over all report about his conduct and behavior from his locality as well from the jail No.2, Tihar has been found favorable and positive. A few neighbours were contacted during the investigation who gave a very favorable report about the behavior and attitude of the accused person, nothing adverse has been found by the Probation Officer. The accused has been facing trial since 1981 and has undergone a great deal of social and economic stress. He is repentant for whatever has happened and prays for sympathetic consideration of the case.

4. Taking the totality of the circumstances into consideration and in view of the report submitted by the Probation Officer, I am of the view that the benefit of Section 4(1) of the Probation of Offenders Act 1958 can be extended to the petitioner. The petitioner has seen the trial for over 24 years, and there has been no untoward incident nor any complaint against him and there is no allegation that he is a previous convict.

5. Looking into the totality of the circumstances, while upholding the order of conviction, I extend the benefit under Section 4(1) of the Act and release the petitioner on probation of good conduct. It is, thereforee, directed that the petitioner be released for a period of two years 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 upon during such period and, in the meantime, the petitioner shall keep peace and be of good behavior. The requisite bond to be furnished by the petitioner and the surety to the satisfaction of the trial court/CMM/ACMM. Fine which has already been paid be

treated as litigation expenses to the State.

6. Criminal Revision Petition 182/2005 and Criminal Misc. Appln.5840/2005 are disposed of . The requisite bond and surety, as directed to be furnished, shall be furnished within a period of three weeks from today failing which the sentence awarded by the trial court shall come into effect. dusty.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com