

Vaswa Nand Vs. State

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Court : Delhi

Decided On : Sep-27-2001

Reported in : 94(2001)DLT773

Judge : R.S. Sodhi, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 279, 304-A and 338; [Probation of Offenders Act, 1958](#) - Sections 4

Appeal No. : Criminal Revision No. 318 of 1999

Appellant : Vaswa Nand

Respondent : State

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

Advocate for Pet/Ap. : P.R. Thakur, Adv

Judgement :

R.S. Sodhi, J.

1. This revision petition is directed against the judgment and order dated 25.8.1999 of the learned Additional Sessions Judge dismissing Crl.A. No. 171 of 1996 arising out of the order of the learned Metropolitan Magistrate, whereby the learned Magistrate held the petitioner guilty under Sections 279/338/304-A, IPC

and further vide separate order sentenced him to undergo imprisonment for six months with a fine of Rs. 500/- under Section 279, IPC and in default of payment of fine to further undergo SI for two months; imprisonment of six months with a fine of Rs. 500/- under Section 338, IPC and in default of payment of fine to undergo SI for two months; imprisonment for one year with a fine of Rs. 500/- under Section 304-A, IPC and in default of payment of fine to further undergo SI for two months.

2. The learned Counsel for the petitioner submits that he does not wish to challenge the conviction on merits but submits that this is a fit case where accused can be admitted to the benefit of the Probation of Offenders Act. He submits that the incident took place as far back as on 1.5.1986. The petitioner has been facing the ordeal of trial for over 15 years and that he has now settled down as useful citizen raising children of the family and that there has been no untoward incident nor any complaint against him. He further submits that the petitioner has been on bail since 6.9.1999 after suffering incarceration. Learned Counsel for the State submits that in the facts and circumstance of this case he would not be averse to the benefit of the Probation of Offenders Act being extended to the petitioner.

3. Having heard learned Counsel for the parties and having given my careful consideration to the material available on record, I am of the view that in the present case, the petitioner has suffered the agony of trial lasting for about 15 years. Besides that, he has already undergone some period in custody. There is no allegation that the petitioner is previous convict. Keeping these circumstances in mind and the fact that the offence of which the petitioner has been convicted is not punishable with life imprisonment, he deserves the benefit of probation under Section 4 of the [Probation of Offenders Act, 1958](#).

4. In this circumstance, while maintaining the conviction of the appellant, the sentence of imprisonment and fine as awarded to him is set aside. Having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is considered expedient to release him on probation of good conduct. It is, therefore, directed that the petitioner be released for period of one year on his entering into a personal bond in the sum of Rs. 10,000/- (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 bonds to be furnished by the petitioner and the surety to the satisfaction of the Trial Court/CMM/ACMM. The fine, if already paid, is directed to be treated as litigations expenses of the State.

5. With the modification, the order under challenge is upheld. The petition stands disposed. The bonds directed to be furnished shall be furnished within a period of two weeks failing which the sentence awarded by the Trial Court shall come into effect.

6. Petition disposed of

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