

Mogan and ors. Vs. State

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Court : Delhi

Decided On : Jul-20-2001

Reported in : 2001(60)DRJ389

Judge : R.S. Sodhi, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 34, 392 and 397

Appeal No. : Criminal Appeal Nos. 242, 252 and 261 of 1994

Appellant : Mogan and ors.

Respondent : State

Advocate for Def. : Santosh Kohli, Adv.

Advocate for Pet/Ap. : K.B. Andley, Sr. Adv. and; Roopesh Sharma, Adv

Judgement :

R.S. Sodhi, J.

1. Criminal Appeals Nos. 242/1994, 252/1994 and 261/1994 are directed against the Judgment and Order of the learned Additional Sessions Judge, Delhi in SC No. 9/1992 whereby the learned Additional Sessions Judge vide his Judgment and Order dated 10.11.1994 held the appellants guilty under Sections 392/34 IPC. Mogan was further held guilty under Section 397 IPC as well. Further by a

separate Order of the same date the learned Judge has been pleased to sentence the appellants to undergo rigorous imprisonment for three years each and to pay a fine of Rs. 1,000/- each under Section 392 IPC and in default of payment of fine to undergo further rigorous imprisonment for two months each. Mogan was further sentenced to undergo rigorous imprisonment for seven years under Section 397 IPC and to pay a fine of Rs. 1,000/- and in default of payment of fine to undergo further rigorous imprisonment for two months. Learned counsel, Mr. Andley, appearing on behalf of the appellants, concedes that he is not in a position to challenge the Judgment of conviction on merits. He, however, confines his arguments to the question of sentence. Attention is drawn to the Judgment of the Supreme Court in : 2001 CriLJ147 Dhanai Mahto and Anr. v. State of Bihar where the Supreme Court has held that minimum sentence prescribed under Section 397 IPC is no bar to the Court reducing it further. He submits that the appellants have undergone a fair amount of sentence and that the occurrence is of April 1988 and that they have already suffered the ordeal of trial for 13 years. The appellant Mogan was admitted to bail vide Order dated 21st November, 1994. Harish Chander was admitted to bail vide Order dated 27th March, 1995 and Ramesh was admitted to bail vide Order dated 8th December, 1994. He submits that the appellants have not in any manner misused their bail.

2. They have on the contrary shown exemplary behavior and have assimilated in the society as useful citizens. No useful purpose will be served in requiring the appellants to undergo the remaining portion of their sentence at this belated stage. Learned counsel for the State submits that in these cases where the appellants have undergone the ordeal of trial for such a long period, no useful object will be achieved by requiring them to undergo the remaining portion of sentence specially in view of the fact that fair amount of sentence has already been undergone by the appellants. She submits that this is a fit case where the Court can exercise its discretion and reduce the sentence to that already undergone. In this view of the matter, having heard learned counsel for the parties, while upholding the Judgment of conviction I modify the Order of sentence to that already undergone.

3. Criminal Appeals No. 242/1994, 252/1994 and 261/1994 are disposed of.

4. Bail bonds and the sureties shall stand discharged. Record of the trial court be sent back forthwith.

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