

Mohd. Jamil Vs. Customs

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Court : Delhi

Decided On : Apr-05-2002

Reported in : 2002(81)ECC693

Judge : R.S. Sodhi, J.

Appeal No. : Crl. R. No. 165 of 2002

Appellant : Mohd. Jamil

Respondent : Customs

Judgement :

ORDER

R.S. Sodhi, J.

1. This revision petition is directed against the judgment and order dated 31.7.2001 of the Additional Chief Metropolitan Magistrate whereby the learned Magistrate had held the appellant guilty under Sections 132 and 135(1)(a) of the Customs Act, Further by order dated 3.9.2001 the learned Magistrate has been pleased to sentence the appellant to six months R.I. with a fine of Rs. 5,000 and in default of payment of fine to further undergo S.I. under Section 132 of the Customs Act. He was also sentenced to undergo one year R.I. with a fine of Rs. 5,000 and in default of payment of fine to further undergo S.I. for one month under Section 135(1)(a) of the Customs Act. Both the sentences were directed to run

concurrently.

2. Learned Counsel for the petitioner confines his arguments only to the question of sentence. He submits that the petitioner has already undergone incarceration for over two months. Besides that he has already suffered the ordeal of trial for over twelve years. He has already deposited a fine of Rs. 10,000. His goods which were brought into the country has also been confiscated and, therefore, this is a good ground to reduce the sentence of imprisonment to a period already undergone.

3. Learned Counsel for the Customs Department submits that the minimum sentence prescribed under the Section is one year, which can only be modified by the Court concerned, assigning special reasons.

4. I have heard learned Counsel for the parties. It appears to me that twelve years of agony of trial is a punishment sufficient enough to teach the petitioner a lesson. Coupled with that he has also deposited Rs. 10,000 as fine. The gold which he brought into the country, without declaring the same has also been confiscated and the petitioner has faced the ordeal of two months incarceration in prison as well. In these facts and circumstances, I deem it proper and in the interest of justice to reduce the sentence of imprisonment of the petitioner to a period already undergone.

5. With this modification Crl. R. 165/2002 is disposed of.

6. The petitioner who is in judicial custody shall be set at liberty forthwith if not wanted in any other case.