

Dwarkalal Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Dec-01-1978

Reported in : 1978WLN(UC)445

Judge : M.L. Joshi, Actg. C.J.

Appeal No. : S.B. Criminal Revision Petition No. 61 of 1975

Appellant : Dwarkalal

Respondent : State of Rajasthan

Judgement :

M.L. Joshi, Actg. C.J.

1. The accused-petitioner was prosecuted for offence under Section 4 read with Section 9 of the Opium Act and was sentenced to 2 years rigorous imprisonment and a fine of Rs. 500/-, in default of payment of fine, further rigorous imprisonment of 4 months by the Munsiff, cum-Judicial Magistrate, Aklera. On an appeal being filed against this judgment before the Additional Sessions Judge, Jhalawar the learned Additional Sessions Judge upheld the order of conviction passed by the Munsif-cum-Judicial Magistrate, Aklera, by his judgment dated January 9, 1975. It is against this judgment that the accused petitioner has come in revisions before this Court.

2. The learned Counsel for the petitioner does not challenge the order of conviction before me. He, however, submits that in the facts and circumstances of this case, the sentence awarded deserves to be reduced. It is submitted by him that the incident relates back to April 1972 and the fear of prosecution has been hanging on the head of the petitioner since then. It has also been submitted on behalf of the accused-petitioner that he had already remained behind the bars for a period of 5 months and 23 days.

3. I have heard the learned public Prosecutor. It is not disputed by him that the accused-petitioner has remained behind the bars for 5 months and 23 days. In these circumstances, I do not think it proper to send him back behind the bars.

4. I, therefore. Partly allow the revision and reduce the sentence of imprisonment awarded to him to that already undergone by him. However, the sentence of fine shall stand. The fine shall be paid within a period of one month. If the fine is not deposited within the period aforesaid, the accused-petitioner shall undergo a sentence of 2 months rigorous imprisonment.