

Ram Kumar and ors. Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jan-10-1990

Reported in : 1990WLN(UC)68

Judge : Mahendra Bhushan Sharma, J.

Appeal No. : S.B. Cr. Revision Petition No. 236 of 1987

Appellant : Ram Kumar and ors.

Respondent : State of Rajasthan

Judgement :

M.B. Sharma, J.

1. In this revision petition, the learned Counsel has not assailed the judgment dated 19th September, 1987 of the learned Sessions Judge, Dholpur and the only prayer made is that each of the accused petitioner has been convicted Under Sections 147 and 332, IPC and they are such offences which could be dealt with under the provisions of Section 4 of the Probation of Offenders Act, 1958 (for short the Act). Even otherwise they are such offences in which a sentence of fine could only be inflicted and the accused petitioner has already undergone 10 days imprisonment.

2. Apart from what has been stated earlier that the conviction of each of the accused petitioner has not been challenged, there is sufficient material on record and it appears that when the officers of the Sales Tax Department had gone to recover the dues of the sales tax, in a jeep on which it was written 'Sales Tax Department', the accused petitioner and others closed their shops and then surrounded the jeep and caused injuries to the officials.

3. The occurrence is of the month of March, 1980 i.e. more than 9 years old and each of the accused petitioner has been convicted Under Sections 147 and 332 IPC which are such offences in which sentence of imprisonment or fine or both could have been inflicted. An offence Under Section 147 IPC is punishable with imprisonment which may extend to two years and fine or both whereas an offence Under Section 332 IPC is such which is punishable with imprisonment for 3 years or fine or both. In view of Section 361 Cr.PC therefore, both the offences are such which could have been dealt with Section 4 of the Probation of Offenders Act, 1958. A bare reading of Section 361 Cr. PC will show that if the case of the accused is such which could have been dealt with either Under Section 4 of the Probation of Offenders Act or Under Section 360 Cr. PC and if the court is not inclined to extend the benefit of probation, then the court must record special reasons for not having done so.

4. In this case no reasons have been recorded by the learned courts what to say of special reasons. I am of the opinion that the benefit of Section 4 of the Probation of Offenders Act may be extended to each of the accused petitioner because it is the first offence of them.

5. Consequently, I hereby partly allow this revision petition. While maintaining the conviction of each of the accused petitioner Under Sections 147 and 332 IPC, in the facts and circumstances of this case, it is hereby directed that each of the accused-petitioner shall be released on each of them furnishing a personal bond in the sum of Rs. 2,000/- with one surety in the like amount to the satisfaction of the trial court undertaking to keep peace for a period of one year and be of good behaviour. The bonds as aforesaid shall be furnished within a period of two months failing which the present revision petition shall be deemed to be dismissed.

and the accused petitioners shall undergo the sentence awarded to them by the courts below. Learned Counsel for the petitioners shall inform the accused petitioners to furnish the bonds as aforesaid.

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