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Court : Rajasthan

Decided On : Nov-12-1986

Reported in : 1987WLN(UC)100

Judge : Inder Sen Israni, J.

Appeal No. : S.B. Criminal Revision Petition No. 266 of 1986

Appellant : Ashok Kumar

Respondent : State of Rajasthan

Disposition : Revision allowed

Judgement :

Inder Sen Israni, J.

1. Heard learned counsel for the parties.

2. This is a revision petition which was filed against the order dated 5-7-1986, passed by the learned Addl. C.J.M. Karauli, by which the petitioner at the time of framing of charge on account of plea of guilt was sentenced to pay fine of Rs. 100/- , in default of payment of fine to undergo 15 days simple imprisonment. Thereafter, the trial against other 4 accused persons commenced and after recording the evidence of the prosecution and hearing the arguments of both the sides, the learned trial court came to the conclusion that presence of 5 or more persons has

not been proved at the time of occurrence. Therefore, there was no unlawful assembly at the site and therefore, acquitted all the 4 accused persons for the offence under Section 147 IPC.

3. It is contended by the learned counsel for the petitioner that on 5-7-1986, a compromise was filed and attested by the court with regard to the offence alleged to have been committed under Section 323/341 IPC. It is further contended that the learned trial court after attesting the compromise on the same day proceeded to frame the charge also, and it is said that the plea of guilt was got recorded by the petitioner on account of which he was convicted under Section 147 IPC and sentenced as indicated above. It is submitted that from the evidence recorded during the trial and from the decision of the learned trial court in which it has been held that 5 or more persons were not present at the site of occurrence and since there was no unlawful assembly, no offence was made out under Section 147 IPC against the accused persons. It is further contended that accused has not explained the implications of pleading guilty and he did not understand that on account of this plea of guilt he will be liable to be convicted under Section 147 IPC. It is also pointed out that PW 2, Rajesh, the injured person, has stated in his statement that the accused petitioner in fact, came to save him at the time of incident.

4. From the above facts it is clear that since the learned court has come to the conclusion that 5 or more persons were not present at the site of incident and in view of the statement, given by the injured Rajesh, PW 2, and that the petitioner was not explained by the court, the implication of plea of guilt, I am of the opinion that the conviction of the accused petitioner cannot be sustained.

5. I, therefore, accept the revision petition and set aside the conviction made by the order dated 5-7-1986. Revision allowed.