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Court : Rajasthan

Decided On : Nov-30-1985

Reported in : 1986WLN(UC)68

Judge : Mahendra Bhushan Sharma, J.

Appeal No. : S.B. Cri. Revision No. 316 of 1985

Appellant : Gokul

Respondent : State of Rajasthan

Judgement :

Mahendra Bhushan Sharma, J.

1. This revision petition is directed against the judgment dated November 21, 1985, of the learned Sessions Judge, Tonk confirming thereby the conviction and sentence of the accused-petitioner Under Section 323 and 325 IPC for three months' RI and a fine of Rs. 200/- Under Sections 323 and 325 IPC. The only argument advanced by the learned Counsel for the petitioner is that instead of punishing the petitioner at once, he should have been given the benefit of the Probations of Offenders Act (here in after called as the Act), more so the offence in respect of which the accused petitioner has been convicted is the first offence.

2. So far as the merits of the case are concerned, there is sufficient material on record that the accused petitioner is the author of grievous and simple injuries to Hira Lal son of Ram Lal by caste Raigor. That apart, even before the learned appellate court, the conviction of the accused petitioner was not challenged on merits and the only argument advanced before him was that the petitioner should be given the benefit of the provisions of the Act. The learned appellate court after taking into consideration the facts and circumstances observed that in his opinion it is not a case which should be dealt with under the provisions of the Act.

3. I have heard learned Counsel for the petitioner. His contention is that the accused petitioner is Bhil by caste and as such is a member of scheduled tribe. There is no previous conviction against the accused petitioner and according to him it was when Hira Lal abused the petitioner and women folk that the occurrence took place, it is also stated by him that the accused has already undergone 10 days imprisonment after his appeal was dismissed by the learned Sessions Judge, Tonk. In my opinion, the accused is a Bhil by caste. There is no previous conviction against him. I am, therefore, of the opinion that having regard to the facts and circumstances of the case, it is a fit case to release the petitioner on probation of good conduct. It is hereby directed that the accused petitioner shall be released on entering a surety and bond in the sum of Rs. 2,000/- to the satisfaction of Sessions Judge, Tonk to appear and receive sentence whenever called upon to do so for keeping the peace and be of good behaviour for a period of one year. Looking to the fact that the accused petitioner is a Bhil by caste and looking to his economic conditions, I do not think it proper to award compensation to the injured.

4. The revision petition partly succeeds while, maintaining the conviction Under Section 323 and 325 IPC against the petitioner, he is given the benefit of Section 4 of the Act and he shall be released on entering into bonds as directed above.

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