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Court : Rajasthan

Decided On : Mar-21-1986

Reported in : 1986WLN(UC)182

Judge : Farooq Hasan, J.

Appeal No. : S.B. Criminal Revision Petition No. 192 of 1980

Appellant : Chhoti

Respondent : State of Rajasthan

Judgement :

Farooq Hasan, J.

1. This revision petition is directed against the judgment dated 21-10-1930 passed by the learned Addl. Sessions Judge, Alwar whereby he maintained the conviction passed against the accused-petitioner by the Munsif and Judicial Magistrate No. 2, Alwar, but he reduced the sentence.

2. The accused petitioner is convicted under Section 379 IPC. It was alleged that on 9-10-1976 the accused-petitioner along with three others were taking bullocks of complainant Ram Singh, who was coming from a meeting at that time, he raised a cry of thief. On this a large number of neighbours came and they followed the thieves. The accused-petitioner caught them after chasing. The thieves, who were

taking the bullocks, left the bullocks when they saw the witnesses. Six witnesses were produced to support the allegations levelled against the accused-petitioner. The accused-petitioner was arrested from the 'Nohra' of Ram Singh complainant is proved by the statement of PW 7.

3. The accused-petitioner after trial was convicted and sentenced for two years, rigorous imprisonment and a fine of Rs. 200/-.

4. Heard learned Counsel for the parties.

5. The learned Counsel for the petitioner at the very outset submitted that looking to the concurrent finding of fact and that the offence is said to have been committed in 1976, he does not want to argue the case on merits. But it was requested by him that the accused petitioner should be given the benefit of probation.

6. As discussed above there is a consistent evidence against the accused-petitioner PW 1 to PW 6 have given direct evidence against the accused-petitioner which is supported by the statement of PW 7, the Investigation Officer. Due to this reason it is not possible to interfere in the finding arrived at by the courts below. I do not find any manifest illegality in procedure or find that the findings if allowed to stand would result in failure of justice. Due to these reason, I do not find any force in this revision petition on merit.

7. The accused-petitioner is convicted for the offence which he is said to have been committed in the year 1976. The petitioner remained on bail during the course of trial, pendency of appeal and revision petition before this court. The petitioner is leading a settled life after his conviction. There is nothing on record to show that the petitioner is the previous convict or that his behaviour is not proper or is in the habit of committing breach of peace. Because of these circumstances, I think it just and proper that instead of sending the accused-petitioner in jail to serve out the sentence, he will be given a chance for further reform and so that benefit of probation should be extended to the accused-petitioner.

8. Accordingly, the revision petition is partly allowed. The conviction and sentence passed by the Addl. Sessions judge No. 1, Alwar is maintained but the sentence is suspended provided that the accused-petitioner furnishes a personal bond in the sum of Rs. 5,000/-with one surety of like amount to the satisfaction of the trial court, at Alwar, with this stipulation that the accused petitioner shall maintain peace and be of good behaviour for two years and that he will serve out the sentence if he contravenes the conditions of the bonds. The accused petitioner is directed to submit the bonds within one month after the receipt of the record in the trial Court.

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