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Court : Rajasthan

Decided On : Apr-18-1985

Reported in : 1985WLN(UC)333

Judge : Vinod Snanker Dave, J.

Appeal No. : S.B. Criminal Revision No. 100 of 1985

Appellant : Ladu

Respondent : State of Rajasthan

Judgement :

Vinod Snanker Dave, J.

1. Heard learned counsel for the petitioner and learned Public Prosecutor on behalf of the State.
2. This revision petition is directed against the judgment of Additional Sessions Judge, Dausa dated April 11, 1985, whereby he maintained the conviction and sentence passed by the Munsif and Judicial Magistrate, Chomu, District Jaipur in a case under Section 380 IPC.
3. The occurrence in this case took place on the intervening night between 18th and 19th September, 1977, wherein a theft of a watch, a shirt and a sum of Rs. 60/- had been committed. Since the case was proved on evidence, the accused

was convicted and the sentence passed against him was six months simple imprisonment and a fine of Rs. 300/-.

4. The conviction of the petitioner has not been challenged on merits in this revision petition. The only point argued is about extending the benefit of Section 360 Cr. PC.

5. This incident took place as early as in 1977 and the trial court convicted the accused after seven years and did not mention any reason as to why the benefit of Section 360 Cr. PC was not to be extended to the accused. It is obligatory on every Court to consider the case under Section 360 Cr. PC and if the Court comes to the conclusion that the case is not fit for extending benefit under Section 360 Cr. PC, then reasons should be given for doing so. The appellate court also fell into the same error and did not consider the aforesaid provisions of law.

6. I have given my earnest consideration to the facts of the case and am of opinion that looking to the nature of the offence and the character of the accused and also keeping in view the fact that the accused has been facing the trial since 1977, he should be given the benefit of Section 360 Cr. PC.

7. For the reasons mentioned above, I partly allow this revision petition. The conviction of the accused-petitioner is maintained, but instead of the sentence passed by the Courts below the accused-petitioner shall be released on probation, provided he executes a bond in the sum of Rs. 1000/-for maintaining the peace for six months and to be of good behaviour during this period. The bond shall be furnished to the satisfaction of the trial court.