

Pabudan Singh Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Nov-10-1985

Reported in : 1985WLN(UC)560a

Judge : Shyam Sunder Byas, J.

Appeal No. : S.B. Criminal Revision No. 157 of 1979

Appellant : Pabudan Singh

Respondent : State of Rajasthan

Judgement :

Shyam Sunder Byas, J.

1. Accused Pabudan Singh was convicted under Section 4(2) of the Rajasthan Prohibition Act, 1969 and was contended to six months rigorous imprisonment with fine of Rs. 500/- by, the learned Munsif and Judicial Magistrate to, Balotra, dated 17-10-1977. The accused went to appeal which was heard and decided by the Sessions Judge, Balotra. The learned Sessions Judge dismissed the appeal and maintained the conviction and sentence of the accused.

2. In view of the concurrent findings of the two courts below Mr. Kumhhat, learned counsel appearing for the accused did not challenge his conviction. The only submission made by him is that no previous conviction stands at the discredit of

the accused. The Rajasthan Prohibition Act, 1969, has been repealed and is now a dead law. The offence was committed in 1977 and it would not be proper to re-send the accused to jail. It was submitted that in view of the facts and circumstances of the case the accused should be released on probation of good conduct.

3. The learned Public Prosecutor on the other hand opposed the prayer and submitted that it is not a fit and proper case where the benefit of Probation of good conduct should be extended to the accused.

4. I have taken the respective submissions into consideration. The accused was found in possession of 7 bottles of illicit liquor. The Rajasthan Prohibition Act, 1969, has been repealed and is now a dead law. In these circumstances it would not be improper to release the accused on probation of good conduct.

5. In the result the revision of accused Pabudan Singh is partly allowed. His conviction under Section 4(2) of the Rajasthan Prohibition Act is maintained but the sentences awarded to him are set aside. Instead of sentencing him at once to any punishment it is hereby directed that he will be released on his entering into a bond for a sum of Rs. 2,000/- together with a surety in the like amount to the satisfaction of the learned Munsif and Judicial Magistrate, Balotra, to appear before him and receive sentence whenever called upon during the period of two years, and in the meantime to keep the peace and be of good behaviour. The accused is allowed two months time to furnish the aforesaid bonds.