

Utma Ram Vs. State of Rajasthan

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SooperKanoon Citation : sooperkanoon.com/769897

Court : Rajasthan

Decided On : Nov-19-1985

Reported in : 1985WLN(UC)564

Judge : Shyam Sunder Byas, J.

Appeal No. : S.B. Criminal Revision No. 158 of 1979

Appellant : Utma Ram

Respondent : State of Rajasthan

Judgement :

Shyam Sunder Byas, J.

1. Accused Utmaram was convicted under Section 4(l)(e) and Section 4(2) of the Rajasthan Prohibition Act, 1969, by the learned Additional Munsif and Judicial Magistrate. Banner by his judgment dated September 26, 1978. He was sentenced to one year's simple imprisonment with a fine of Rs. 200/- under Section 4(2) of the aforesaid Act. The accused challenged his conviction by way of appeal. The learned Sessions Judge, Balotra, by his judgment dated May 9, 1979, partly allowed his appeal and his conviction under Section 4(1)(e) of the Rajasthan Prohibition Act was set aside. However, his conviction under Section 4(2) of the Act was maintained but the sentence of imprisonment was reduced from one year to that of six months. The amount of fine was maintained.

2. In view of the concurrent findings of the courts below. Mr. Kumbhat, learned counsel appearing for the accused did not challenge his conviction. The only submission made by him is that the Rajasthan Prohibition Act, 1969 has been repealed & is now a dead law. No previous conviction stands at the discredit of the accused. The accused was found in possession of only 5 litres of illicit liquor. Both the courts below have not recorded the reasons for not extending the benefit of probation of good conduct to the accused as is required by Section 360 and 361 Cr. PC. It was submitted that the accused should be released on probation of good conduct.

3. In reply, the learned Public Prosecutor submitted that the possession of illicit liquor adversely affects the State Revenue and as such, the accused should not be leniently dealt with.

4. I have taken the respective submissions into consideration. The Rajasthan Prohibition Act, 1969 has been repealed and is now dead law. The accused was found in possession of only 5 litres of illicit liquor. No previous conviction stands at his discredit. Taking all these factors into consideration it would not be improper to release the accused on probation of good conduct.

5. In the result the revision of accused Utmaram is partly allowed. His conviction Under Section 4(2) of the Raj. 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 Addl. Munsif and Judicial Magistrate, Barmer, to appear before him and receive sentence when called upon during the period of 2 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.