

Goru Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Aug-20-1987

Reported in : 1987WLN(UC)757

Judge : Narendra Mohan Kasliwal, J.

Appeal No. : S.B. Cr. Revision No. 220 of 1981

Appellant : Goru

Respondent : State of Rajasthan

Judgement :

Narendra Mohan Kasliwal, J.

1. The petitioner was convicted under Section 379 IPC and sentenced to 3 years rigorous imprisonment and a fine of Rs. 250/- and in default of payment of fine undergo three months rigorous imprisonment by the learned Judicial Magistrate No. 4, Ajmer by his order dated April 13, 1980. The appeal filed by the accused petitioner was also dismissed by the learned Sessions Judge, Ajmer, by order dated August 28, 1981. The petitioner in these circumstances has filed the present revision challenging his conviction and sentence under Section 379 IPC.

2. Learned counsel for the petitioner did not challenge the conviction of the petitioner under Section 379 IPC and only made his submission that the matter

related to November 21, 1974, to which nearly 13 years had elapsed It is further submitted that the petitioner has remained in jail from November 25, 1974 to January 30, 1975, April 14, 1980 to May 7, 1980 and then from August 28, 1981 to September 9, 1981, thus, in all for about 3 months 24 days. It is submitted that it is the first offence committed by the petitioner and in view of the above circumstances he should be granted benefit of the probation.

3. So far as the conviction of the petitioner under Section 379 IPC is concerned, learned Sessions Judge has considered the entire prosecution evidence and has placed reliance on the statements of Ram Chandra Rao PW 8, who had caught the accused red-handed along with bulls. Learned counsel for the petitioner has also not challenged the above finding and in my view the conviction of the petitioner under Section 379, IPC stands proved by prosecution.

4. It is no doubt correct that the petitioner has been found guilty of committing theft of bulls but in view of the fact that he has already remained in jail for about 3 months 24 days and the incident is of November 21, 1974 no useful purpose would be served in sending the petitioner to jail to serve out the remaining sentence. There is nothing on record to show that during the intervening period the petitioner was found involved in any other criminal offence and I think it just and proper to give one chance to the petitioner to reform himself and to live the life of respectable citizen.

5. In view of these circumstances, this revision is allowed in part The conviction of the petitioner is maintained under Section 379 IPC As regards the sentence of three years rigorous imprisonment awarded to him it is now directed that the petitioner will not serve out the remaining part of sentence of imprisonment provided he furnishes a personal bond in the sum of Rs. 5,000/- with one surety in the like amount to the satisfaction of the learned Judicial Magistrate No. 4, Ajmer for maintaining peace and to maintain good conduct for a period of two years and to serve out the remaining sentence of imprisonment in case of breach of any of the conditions of such bond. The sentence of fine of Rs. 250/- imposed on the petitioner is maintaine. Two months time from today is allowed to the petitioner to deposit the fine and to furnish the requisite bond as mentioned above. In case of

failure to do so the petitioner would serve out the remaining sentence of imprisonment.

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