

Kamlesh Vs. State of Rajasthan

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SooperKanoon Citation : sooperkanoon.com/772276

Court : Rajasthan

Decided On : Mar-01-2007

Reported in : 2007(1)WLN477

Judge : Gopal Krishan Vyas, J.

Appeal No. : S.B. Cri. Revision Petition No. 581/2006

Appellant : Kamlesh

Respondent : State of Rajasthan

Judgement :

Gopal Krishan Vyas, J.

1. Heard learned Counsel for the petitioner.

2. By way of the present revision petition, the petitioner is challenging the judgment dt. 17.06.2006 passed by Addl. Sessions Judge No. 1, Udaipur in Criminal Appeal No. 06/2006 by which while reducing the sentences, he has maintained conviction of the petitioner for offences under Section 457 and 380, I.P.C. recorded vide judgment dt. 19.10.2005 passed by the Judl. Magistrate No. 2 (South), Udaipur in regular Criminal Case No. 828/2003.

3. It is submitted by learned Counsel for the petitioner that he would not challenge the finding of both the Courts below and confines his submission to the quantum of

the substantive sentences. He prays that in this case the trial Court sentenced the petitioner to suffer rigorous imprisonment for three years for commission of offence under Section 457, I.P.C. and two years rigorous imprisonment for commission of offence under Section 380, I.P.C. alongwith fine of Rs. 500/- for each offence, however, the appellate Court has reduced the substantive sentence to one year in respect of each offence. Both the sentences are ordered to run concurrently by the Courts below. He submits that by order dated 17.07.2006 the sentence of the petitioner was suspended by this Court but due to non-furnishing the bail bonds the petitioner is still behind bars.

4. Learned Counsel for the petitioner submits that initially when the case was registered against the petitioner he was arrested on 23.10.2003 vide Ex.- P/5 and, thereafter, he was arrested only by the orders of the learned Sessions Court on 19.12.2003 and, thus, he remained in police and judicial custody with effect from 23.10.2003 to 19.12.2003 during the trial stage. It is further submitted that an application for exemption of personal attendance before the Court was rejected on 04.08.2005 by the trial Court and warrant of arrest was issued. The petitioner was arrested on 08.10.2005 and from 08.10.2005 he remained in custody and released by the orders of the Sessions Court on 30.11.2005. After rejection of the appeal vide judgment dated 17.06.2006, the petitioner was taken into custody and till today he is in jail.

5. Learned Counsel for the petitioner submits that the total period already undergone by the petitioner comes close to one year and petitioner has remained behind bars due to poverty as he could not furnish the bail bonds.

6. In the Interest of Justice, this revision petition is partly allowed. The substantive sentence of the petitioner for each offence is reduced to the period of imprisonment already undergone by the petitioner. The sentence of fine in respect of each offence is set-aside. The petitioner shall be released forthwith, if not required in any other case.