

Daulatram and Others Vs. the State of Rajasthan.

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Court : Rajasthan

Decided On : Jul-29-2011

Judge : Narendra Kumar Jain, J.

Acts : Indian Penal Code (IPC) - Section 147, 323, 341, 336, 504; [Probation of Offenders Act, 1958](#) - Section 4, 12

Appeal No. : S.B. Criminal Revision Petition No. 894 of 2011

Appellant : Daulatram and Others

Respondent : The State of Rajasthan.

Advocate for Def. : Ms. Rekha Madnani, Adv

Advocate for Pet/Ap. : Mr. N.S. Dhakad, Adv

Judgement :

1. Heard learned counsel for the parties.
2. Petitioners, namely Daulatram, Amar Singh, Ramswaroop, Jaidev and Mohar Singh were convicted and sentenced by the Court of Judicial Magistrate First Class, Weir, District Bharatpur, vide judgment and order dated 16.09.2009 passed in Criminal Case No. 424/2007, under Section 147, 323, 341, 336 and 504 IPC. They preferred an appeal, which was partly allowed by learned appellate court, i.e. Additional District and Sessions Judge, No. 2, Bayana, vide judgment and order

dated 01.07.2011 passed in Criminal Appeal No. 34/2009. Their conviction and sentence under Sections 336 and 341 IPC were set aside, but their conviction under Sections 323, 147 and 504 IPC, passed by trial court was affirmed. However, sentence of imprisonment awarded by the trial court were set aside and they were given benefit of Section 4 of the [Probation of Offenders Act, 1958](#) (for short 'the Act of 1958').

3. Learned counsel for the petitioners submitted that although appellate court has already set aside order of sentence of imprisonment of the petitioners and they have been given the benefit of Section 4 of the Act of 1958, but Petitioner No. 2, Amar Singh is a Government servant and his conviction may not be treated as disqualification, therefore, the petitioners have preferred this revision petition with a prayer that it may be clarified that as per Section 12 of the Act of 1958, conviction of petitioners may not be treated as disqualification.

4. I have considered submissions of learned counsel for the parties and examined impugned judgments passed by both the courts below.

5. Section 12 of the Act of 1958 is reproduced as under:

“12. Removal of disqualification attaching to conviction.- Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of section 3 or section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law:

Provided that nothing in this section shall apply to a person who, after his release under Section 4 is subsequently sentenced for the original offence.”

6. The above provision of law makes it clear that a person found guilty of an offence and dealt with under the provisions of Section 3 or Section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law, therefore, there is no need of any clarification in this regard. If the petitioners are entitled for the benefit of Section 12 of the Act of 1958, then the same may be

given to them.

7. With the aforesaid observation, revision petition stands disposed off.

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