

(1995) 09 P&H CK 0014

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 8075-M of 1995

Baldev Singh alias Baldeva

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 06-09-1995

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 302

Citation : (1996) CriLJ 1551 : (1996) 1 RCR(Criminal) 124

Hon'ble Judges : Swatanter Kumar, J

Bench : Single Bench

Advocate : Baljeet Kaur Bhuller, for the Appellant; N.S. Bhinder, D.A., for the Respondent

Final Decision : Allowed

Judgement

Swatanter Kumar, J.—This is a petition u/s 482 of the Code of Criminal Procedure read with Article 226 227 of the Constitution of India, praying for quashing of impugned jail punishment dated 2-11-1993, awarded to the petitioner by respondent No. 2. The petitioner was convicted for an offence u/s 302 of Indian Penal Code and was sentenced to undergo life imprisonment by the Court of Sessions Judge, Hissar vide its order dated 11-2-1985. The petitioner was transferred from the Central Jail, Hissar to Central Jail, Ambala. According to the petitioner, he has been falsely implicated by the Central Jail, Ambala on the very first day i. e. 31-10-1993.

2. In reply filed by the respondents, there is no dispute with regard to these facts except that the convict used abusive and insubordinate language to the jail authorities and consequently upon his confession, he was punished. In paragraph No. 4 of the petition it has been stated that order of punishment is invalid and against natural principle of justice as the petitioner was not granted any opportunity to defend himself before punishment in question was inflicted upon

him by the jail authorities. The petitioner also submits that punishment was awarded to him without application of mind and was not sent for judicial appraisal of the Sessions Judge. As such, the punishment in question is without following the statutory provisions. In paragraph No. 5 of the reply filed on behalf of the State of Haryana, this fact is not disputed and it is stated that the judicial appraisal was not sought due to the oversight of the junior staff, inadvertently.

3. Learned counsel for the petitioner relies upon *Harchand Singh v. State of Punjab*, reported as (1986) 2 All LR 216 and *Swaran Singh v. The State of Punjab*, reported as (1986) 2 All LR 225. In both these cases, while following the mandate pronounced by the Supreme Court of India in case, *Sunil Batra Vs. Delhi Administration and Others etc.*, , it was held that because of lack of judicial appraisal by the Sessions Judge, inflicting of punishment would be invalid and would have to be set aside.

4. in view of above discussion, the order of punishment dated 2-11-1993, is hereby set aside and quashed as the order has been passed without complying with the provisions of the Punjab Jail Manual in not seeking judicial appraisal of the Sessions Judge. However, the respondents are at liberty to pass fresh order in accordance with law and after following due process.

5. The petition is accordingly allowed to this extent. There shall be no order as to Costs.