(1980) 10 P&H CK 0028

In the Punjab And Haryana At Chandigarh

Case No : C.R. No. 702 of 1978

DHARAM PAL APPELLANT

Vs

INCOME TAX OFFICER. RESPONDENT

Date of Decision : 10-10-1980

Acts Referred:
Income Tax Act, 1961 — Section 277

Citation : (1981) 20 CTR 135

Hon'ble Judges : A. S. Bains, J

Bench : Division Bench

Judgement

: A. S. Bains, J. - Petitioner Dharam Pal was convicted and sentenced by the Chief Judicial Magistrate, Ludhiana, u/s 277 of the IT Act, 1961, to undergo simple imprisonment for three months and to pay a fine of Rs. 500/-, in default simple imprisonment for one month. However, his co-accused Jagdish Chander and Brij Lal were acquitted. On appeal, his sentence of imprisonment was reduced to till the rising of the Court but the sentence of fine was enhanced to Rs. 1000/-, in default of payment of fine, he was directed to undergo simple imprisonment for three months. Hence this revision petition by Dharam Pal petitioner.

2. Ld. counsel for the petitioner has urged that the petitioner was denied the benefit of probation by the Courts below on the ground that he was convicted in an economic offence, and the ld. counsel could not produce any authority before the Courts below whether the probation could be allowed in the offence committed under the IT Act.

3. Ld. counsel for the petitioner, has brought to my notice K. Ganesh v. Narayana Iyer. First ITO, Hassan and another (1974) MLJ 320, wherein High Court of Karnataka gave the benefit of probation to the offender u/s 277 of the IT Act. The petitioner is a first offender. There is nothing against his character and antecedents. In my view the end of justice would be amply met if his sentence of imprisonment and fine is set aside and he is given the benefit of probation. It is

ordered accordingly and directed that he will be released on probation on his entering into a bond in the sum of Rs. 2000/- with one surety in the like amount to the satisfaction of the trial Court for a period of six months undertaking to appear in Court and receive sentence as and when called upon to do so during such period and in the meantime to keep the peace and be of good behaviour. He is further directed to pay Rs. 1000/- as litigation expenses to the respondent IT Department.

Except for the alteration in the sentence as indicated above, the revision petition fails and is dismissed.

