
(2010) 03 RAJ CK 0020

In the Rajasthan High Court

Case No : Criminal Miscellaneous 2nd Suspension of Sentence Application No.
137 of 2010

Farid

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 16-03-2010

Acts Referred:

Arms Act, 1959 — Section 25, 3
Criminal Procedure Code, 1973 (CrPC) — Section 374, 389
Penal Code, 1860 (IPC) — Section 399, 402

Citation : (2011) 8 RCR(Criminal) 1672 : (2011) 1 RLW 505

Hon'ble Judges : M.C. Sharma, J

Bench : Single Bench

Judgement

Mahesh Chandra Sharma, J.—Since both these 2nd suspension of sentence applications have been filed by the accused applicants Hajar S/o Nayab, Arshad son of Nayab and Farid son of Mamla, accused Appellants in S.B. Criminal Appeal No. 778 of 2009 filed by them challenging the order of conviction and sentence dated 18.7.2009 of Addl. Sessions Judge (Fast Track No. 4) Bharatpur, they are disposed by this common order.

2. The accused applicants by the judgment of the Addl. Sessions Judge (Fast Track No. 4) Bharatpur dated 18.7.2009 were convicted and sentenced as under:

Hajar s/o Nayab, Arshad son of Nayab and Farid son of Mamla were convicted u/s 399 IPC and sentenced to Five Years RI with fine of Rs. 3,000/- each and in default to suffer two months SI and further convicted u/s 402 IPC to suffer Three years RI and fine of Rs. 2000 and in default of payment of fine to suffer two months SI. Accused applicants Hajar and Farid were further convicted under Sections 3/25 of the Arms Act to suffer one year RI and fine of Rs. 1000/- and in default of payment of fine to suffer one year SI. All the sentences were ordered to run concurrently. For recovery of Rs. 7,85,000/- the trial Court directed for further investigation.

3. Brief facts of the case are that on receiving information the police nabbed the accused persons and recovered from them Deshi kattas and live cartridges and cash amounting to Rs. 7,85,000/-. The prosecution in support of its case recorded the statements of 10 witnesses and exhibited 18 documents. After concluding trial the accused applicants were convicted and sentenced by the trial court as mentioned above vide judgment dated 18.7.2009. Against the said judgment the accused Appellants preferred appeal u/s 374 Code of Criminal Procedure and also filed application u/s 389 Code of Criminal Procedure for suspension of sentence. The application of suspension of sentence No. 829 of 2009 by the accused applicants was withdrawn and the same was rejected as withdrawn by this Court on 11.8.2009. Thereafter the accused applicants moved the above two 2nd Applications for suspension of sentence.

4. Mr. Jainendra Jain, learned Counsel for the accused applicants contended that the accused applicants are innocent and conviction and sentence passed by the trial Court is illegal and against law. The impugned judgment of conviction and sentence is perverse and hearing of the appeal filed by the accused applicants will take time and the accused applicants are ready to submit bail bonds and they are also ready to comply with the conditions as may be fixed by this Court, hence their sentence may be suspended during the pendency of the appeal before this Court.

5. On the other hand, the learned Public Prosecutor opposed both the 2nd applicants for suspension of sentence by the accused applicants. The learned Public Prosecutor contended that the first application for suspension of sentence moved by the accused applicants was heard at length and after that the learned Counsel for the accused applicants withdraw the application and on this the application was dismissed as withdrawn. The learned Counsel for the accused applicants has not submitted any fresh ground, which was not considered previously while deciding the earlier application for suspension of sentence. The offence committed by the accused applicants are heinous and serious in nature and deshi kattas and huge amount in cash was recovered from them. Such types of crimes are increasing day by day and in the present scenario the trial Court convicted and sentenced the accused applicants as mentioned above by the judgment dated 18.7.2009.

6. I have considered the arguments of the parties and also perused the judgment of conviction and the earlier order of rejecting the application for suspension of sentence. No fresh ground has been raised by the accused applicants for suspending the sentence during the pendency of the appeal. It may also be mentioned that the accused Appellants Khurshid s/o Ayub and Farid son of Rahmat filed 2nd application for suspension of sentence No. 948/2009 and their 2nd application was rejected by this Court on August 31, 2009 by a detailed order. In these circumstances, in my view in such types of heinous offences, the accused applicants are not entitled for suspension of sentence during the pendency of appeal, Both these 2nd applications for suspension of sentence

stand rejected.