

(1990) 03 P&H CK 0036

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 3983 of 1989

Harbans Singh

APPELLANT

Vs

State of Punjab and anr.

RESPONDENT

Date of Decision : 30-03-1990

Acts Referred:

Citation : (1990) 3 RCR(Criminal) 71

Hon'ble Judges : A.P.Choudhri, J

Advocate : Rosy A. Singh, Rashpal Singh, Advocates for appearing Parties

Judgement

A.P. Choudhri, J.

1. The petitioner is undergoing life imprisonment following conviction in a case relating to murder and rape. During the course of his undergoing the imprisonment he was awarded four jail punishments, which he has challenged through the writ petition. Return has been filed by the respondents. There is no dispute with regard to three out of the said four jail punishments, that no judicial appraisal was obtained. They are unsustainable and are therefore, set aside. With regard to jail punishment mentioned at No. 3, the material facts are mentioned in paragraph 3 of the writ petition. These averments are to the effect that on 21/7/1984 Bhajan Singh warder and Baljinder Singh, Assistant Superintendent Jail found the petitioner under the influence of intoxication at 8 P.M. Convict Warder Swaran Singh recovered 20 intoxicating tablets and the petitioner was subjected to medical examination. He was kept in a segregation cell and produced for further proceedings before the Superintendent Jail on 26/3/1984. The Superintendent Jail recorded in the proceedings dated 26/3/1984 that the convict was present in person; he was given full opportunity to defend himself. The charge was stated against him. It was to the effect that 20 intoxicating tablets were found in his bedding. Then the proceedings recorded the punishment i. e. 12 days remission being withdrawn and tablets being destroyed. It was also noted that the punishment be got judicially appraised from the learned Sessions Judge, Faridkot. The point of significance is that there was no record made that

the petitioner had confessed his guilt before the Superintendent Jail. In the absence on confession it was incumbent on the Superintendent to have held an enquiry by examining the witnesses concerned. The pleadings of the parties :make it abundantly clear that no such enquiry was held. The result is that: this punishment is also not sustainable. Accordingly, the petition is allowed and all the four punishments in question are hereby setaside.