
(2007) 02 RAJ CK 0033
In the Rajasthan High Court

Hira Lal

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 05-02-2007

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 498A

Citation : (2007) CriLJ 1603

Hon'ble Judges : Shiv Kumar Sharma, J;Raghvendra S. Chauhan, J

Bench : Division Bench

Final Decision : Allowed

Judgement

R.S. Chauhan, J.—Convicted for an offence u/s 302 I.P.C. having served for 5 years and 6 months of incarceration, the petitioner hoped for a brief freedom to be given to him under the Rajasthan Prisoner (Release on Parole) Rules, 1958 (henceforth to be referred to as "the Rules of 1958", for short). However, vide order dated 19-6-06 his hopes were dashed. Hence he has challenged the said order before this Court.

2. Vide judgment dated 30-9-02, the Addl. District Judge (Fast Track) Jhunjhunu convicted the petitioner for offence under Sections 302 and 498A of the I. P. C., and sentenced him to life imprisonment. According to his prison record, he has served 5 years, 9 months and 27 days till 14-11-06. Since he was eligible for his first regular parole under the Rules of 1958, he applied for the same. However, because of an adverse report submitted by the Superintendent of Police, Jhunjhunu, vide order dated 17-6-06, the Advisory Committee rejected his case. Hence, this appeal before this Court.

3. Mr. Anshuman Saxena, the learned Counsel for the petitioner has argued that in catena of cases repeatedly this Court had held that parole cannot be denied only on the basis of adverse report submitted by the police. Since reformatory theory of punishment holds the fields, the level of reformation undergone by the prisoner during his incarceration is the most material fact. Therefore, the

Advisory Committee has erred in rejecting his case on the basis of adverse report submitted by the police.

4. On the other hand, the learned Dy. Govt. Advocate Mr. A. K. Sharma has supported the impugned order.

5. We have heard both the learned Counsel and have perused the impugned order.

6. Every one is born free. Freedom resides in the soul of each person. To be cribbed, cabined and confined within the strong walls of a prison, leads to a feeling of suffocation and restlessness. The era of dumping people in jail and forgetting about their existence is over. The new penal philosophy is not to incarcerate, but to reform the convicted prisoners. The aim of the prison administration is not just to punish but to improve the convicted prisoner to the extent that he/she may be brought back into the society as a contributory member. It is with this aim that the Rules of 1958 were framed. Rule 13 of the Rules of 1958 clearly states that grant of parole shall be used as an occasion to inculcate good behaviour among the convicted prisoner. In catena of cases, the Hon"ble Supreme Court has repeatedly pointed out that the purpose of parole is to instil good behaviour, to keep the family link alive and to ensure that the convicted prisoner is brought peacefully back into the society at large. Repeatedly this Court has also held that in order to know the change in the convicted prisoner, it is the report of the Superintendent of the Jail, which is most important. For, it is he who can inform the Advisory Committee about the change brought about in the prisoner. Therefore, an adverse police report is insignificant. Thus, the Advisory Committee was not justified in rejecting the petitioner's case on the basis of adverse police report and the report of the Social Welfare Officer.

7. In the result, we allow this petition and quash and set aside the order dated 19-6-06. The Superintendent of Central Jail is directed to release Hiralal s/o. Mohan Lal on first regular parole for 20 days provided that the petitioner submits two sureties of 30,000/- each along with a personal bond of the same amount to the satisfaction of the Superintendent, Central Jail, Jaipur. The petitioner is further directed to return to the Central Jail on the completion of 20 days from the date of his release from the prison. He is further directed to maintain peace and tranquillity during his parole period.