
(1987) 03 P&H CK 0089

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 1982 of 1986

Jagir Singh & Ors.

APPELLANT

Vs

State of Punjab & Ors.

RESPONDENT

Date of Decision : 03-03-1987

Acts Referred:

Citation : (1987) 2 RCR(Criminal) 49

Hon'ble Judges : Pritpal Singh, J

Advocate : I.S. Rai, J.S. Bhatti, Advocates for appearing Parties

Judgement

Pritpal Singh, J.—By this order two criminal writ petitions (Nos. 982 and 1148 of 1986) are being disposed of together as common question of fact and law are involved therein.

2. Although a number of prayers have been made in these two petitions but the only prayer which has been pressed before me is that of quashing the jail punishment awarded to the petitioners. Admittedly the petitioners in both the cases were jointly punished by the jail authorities on August 8, 1986. The punishment awarded to each of them was cut of six months" remission. This punishment is sought to be quashed on the ground that the petitioners were not associated in any enquiry and no opportunity had been granted to them to defend themselves. In the return filed by the respondents these allegations have not been denied. The impugned punishment, therefore, manifestly violates Section 46 of the Prisons Act, which reads as follows :

46. The Superintendent may examine any person touching any such offence and determine thereupon, and punish such offence by"

3. While interpreting this Section it was held by this Court in *Inderjit Singh v. State of Punjab & Ors.*, 1982(2) C.L.R. 129, that the Superintendent Jail has to determine as to whether a convict has committed any jail offence which implies that the punishing authority has to apply its mind to the facts and circumstances of the case. It is implicit in this process that the concerned convict has to be

associated with the process of determination. The statements of the witnesses have to be recorded in the presence of the convict. Thereafter he has to be given an opportunity of being heard so that he may refute the allegations made against him. In the present two cases this procedure was not adopted and the petitioners were not associated in the enquiry held against them. The punishment imposed upon the petitioners is, therefore, unsustainable.

4. The result of the aforesaid is that the impugned jail punishment awarded to the petitioners in these two cases is hereby quashed. However it will be open to the jail authorities to proceed in the matter afresh in accordance with law. These petitioners are disposed of accordingly.