
(2019) 12 CAL CK 0119
In the Calcutta High Court

Case No : CRAN No. 740 Of 2019, Criminal Appeal (CRA) No. 308 Of 2018

Jainal Abedin

APPELLANT

Vs

State Of West Bengal

RESPONDENT

Date of Decision : 23-12-2019

Acts Referred:

Foreigners Act, 1946 — Section 14A(b), 14C
Code Of Criminal Procedure, 1973 — Section 235(1)

Citation : (2019) 12 CAL CK 0119

Hon'ble Judges : Shivakant Prasad, J

Bench : Single Bench

Advocate : Swapan Kumar Mallick, Kazi M. Rahaman, Sudeshna Das, Faria Hossain, Baisali Basu

Final Decision : Disposed Of

Judgement

Shivakant Prasad, J

The learned Registrar Administration (L& OM) dated 20.12.2019 in compliance of this Court's order dated 18.12.2019 has submitted the report of the Superintendent, Berhampore Central Correctional Home dated 19.12.2019 which reflects that the appellant in total has suffered sentence for a period of two years seven months and 23 days as on date.

I have heard the learned advocate appearing for the State and learned advocate appearing for the appellant in so far as the merits of the case are concerned.

The instant appeal has been preferred against the judgment dated 04.06.2019 passed by the learned Additional Sessions Judge, Fast Track 2nd Court, Malda convicting the appellant No.1/Jainal Abedin under Section 14A(b) of the Foreigners Act, 1946 and sentencing him to suffer simple imprisonment for three (3) years and to pay a fine of Rs.20,000/- only, in default to suffer S.I. for one (1) year in connection with Sessions Case No.357 of 2017 and Sessions Trial No.03(10) 2017.

The brief facts leading to the instant appeal is that the appellant is a Bangladeshi National was found in suspicious movement on 26.04.2017 at about 4.10 hours when ACP Party No.1 consisting of five B.S.F. personnel with the help of monocular near BP No.235/M, ACP Party laid on ambush own side (India Side) of culvert existing in the AOR and he was apprehended and arrested which had near about to Indian Territory with the intention to carry out smuggling of cattle heed from India to Bangladesh. Charge-sheet was submitted after investigation under Section 14A(b)/14C of the Foreigners Act and after taking into account of the offence, the learned Chief Judicial Magistrate committed the Court from the learned District and Sessions Judge, Malda and transferred to the learned Trial Court started trial on framing the charge against the appellant under Section 14A(b) of the Foreigners Act against the appellant, Jainal Abedin and against other four accused persons namely, Susanta Mirdha, Bonta Mondal, Dipankar Mondal and Babu Pandey charge under section 14C of the Foreigners act was framed to which each of them had individually pleaded not guilty and claimed to be tried. As many as seven prosecution witnesses were examined on closure of the trial.

After hearing the parties, the learned Trial Court sentenced the appellant guilty of the offence punishable under Section 14A(b) of the Foreigners Act and to sentence Jainal Abedin/appellant no.1 to simple imprisonment for three years and to pay a fine of Rs.20,000/- whereas rest of the accused persons were acquitted of the charge under Section 14C of the Foreigners Act under the provisions of Section 235(1) of the Criminal Procedure Code.

The ground taken in this appeal is that the learned Judge has failed to appreciate the evidence adduced by the prosecution witnesses and without application of mind convicted the appellant no.1 on the basis of conjecture and surmise.

Upon hearing the learned advocates for the appellant and for the State and on perusal the impugned judgment, I do not find sufficient ground to differ with the observation as made in the impugned judgment passed by the learned Trial Court.

Accordingly, the appeal is not tenable in law and in fact and is liable to be dismissed. The appellant be deported from Territory of India after completion of his sentence.

With the above direction C.R.A. No. 308 of 2018 is disposed of.

Accordingly, C.R.A.N. No.740 of 2019 is disposed of.

A copy of this judgment together with LCR be sent down to the Trial Court forthwith for necessary note in the Sessions Trial Register and for doing the needful. An extract copy of this judgment be sent to the Superintendent, Central Correctional Home, Berhampore for his information and doing the needful.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on completion of all necessary formalities.