
(1990) 01 P&H CK 0064

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 3484 of 1989

Karan Singh

APPELLANT

Vs

State of Haryana and anr.

RESPONDENT

Date of Decision : 18-01-1990

Acts Referred:

Citation : (1990) 1 AICLR 668 : (1990) 1 RCR(Criminal) 510

Hon'ble Judges : Jai Singh Sekhon, J

Advocate : Sh. Narinder Kumar, Veena Ashwani Talwar, Advocates for appearing Parties

Judgement

Jai Singh Sekhon, J. (Oral)

1. The petitioner was convicted in a murder case and sentenced to undergo imprisonment for life vide order dated 541981 by the Court concerned. During trial he remained in custody from 2861980 to 481980, before his release on bail. During his confinement in Jail, the petitioner was awarded jail punishment under Section 46 of the Prisons Act, 1894, by the Superintendent of the concerned jail in the shape of cut of nine months in the remission and separate confirmation On appraisal, the learned Sessions Judge, Bhiwani, reduced this period to four months. The petitioner has sought the quashment of jail punishment in this writ petition on the ground that the proper procedure was not followed while holding the enquiry and that no opportunity was afforded to the petitioner to defend himself.

2. In return filed by the Superintendent, District, Jail, Bhiwani, it is admitted that no detailed procedure was followed but as per practice then in vogue the subordinate officer of the jail has written the offence on the history ticket of the detenu and that the matter was decided in the presence of the petitioner. Thus, under these circumstances, there is no escape but to conclude that rules of natural justice were not followed by the said Superintendent while holding enquiry under Section 46 of the Prisons Act, 1894. The provisions of this section came under the scrutiny of this Court in *Inderjit v. State of Punjab and others*,

1982(2) Chandigarh Law Reporter 129. Mr. Justice S.S. Kang (as he then was) now Chief Justice of Jammu and Kashmir High Court, after detailed dismissing on and relying upon the Division Bench authority of the Bombay High Court in Prisoner v. Superintendent, Nagpur Central Prison, 1972(2) Cr. L.J. 673, concluded that even though no procedure for holding enquiry under Section 46 of the Act is prescribed, yet all the same the rules of natural justice must be complied with by associating the detenu with enquiry and affording him an opportunity to defend himself.

3. In the case in hand, what to say of affording an opportunity to the detenu to defend himself, the statements of the witnesses were not even recorded during enquiry.

4. For the foregoing reasons, the impugner order of punishment is quashed by accepting this writ petition and a direction is issued to the respondent not to take into consideration the above referred punishment while working out the period of remission earned by the petitioner while considering his case for premature release.