
(2019) 07 JH CK 0189

In the Jharkhand High Court

Case No : Criminal Revision No. 921 Of 2008

Kesho Thakur @ Keshav Thakur And Ors

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 11-07-2019

Acts Referred:

Wildlife Protection Act, 1972 — Section 51(1)

Citation : (2019) 07 JH CK 0189

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Rajesh Kumar Singh, Sandip Kumar Burnwal

Final Decision : Disposed Of

Judgement

1. Heard Mr. Rajesh Kumar Singh, counsel appearing on behalf of the petitioners.
2. Heard Mr. Sandip Kumar Burnwal, counsel appearing on behalf of the State.
3. The relief prayed by the petitioner in this petition reads as under:-

"This revision is directed against the judgment and order dated 30.07.2008 passed by Sri Md. Noman Ali learned 1st Additional Sessions Judge, Palamau at Daltonganj in Criminal Appeal No. 01 of 2005 has been dismissed filed by the petitioners against the judgment of conviction and order of sentence dated 06.12.2004 passed by Sri Yogesh Kumar Singh, learned Judicial Magistrate 1st Class Daltonganj in C.F. Case No. 18/2001, T.R. No. 790 of 2004 whereby and whereunder the petitioners and others have been found guilty for the offence punishable under section 51 of the Wild Life Protection Act and have been sentenced to undergo simple imprisonment for two years."

4. Counsel for the petitioners submits that the petitioners are confining their argument on the point of sentence. The counsel submits that as per the impugned judgment the date of incident is 13.03.2001 and the order of conviction of the learned trial court is 06.12.2004. Counsel for the petitioners

submits that the petitioner no. 1 and 2 have been convicted to undergo simple imprisonment for two years and they are facing criminal case since the year 2001. He further submits that the petitioners have remained in judicial custody during the trial for the period 13.03.2001 to 18.04.2001 and at the stage of filing revision for the period from 17.11.2008 to 18.12.2008 and accordingly, total period of custody of the petitioners have been 69 days. Counsel further submits that there is apparently no criminal antecedent of the petitioners and considering aforesaid aspect of the matter, there may be some remission on the point of sentence.

5. Counsel appearing on behalf of the State on the other hand submits that although there were altogether six accused persons in the case but at the appellate stage four persons were acquitted and only conviction of these two petitioners have been upheld. However, he submits that the petitioners have been convicted under Section 51(1) of the Wild Life Protection Act, 1972 for two years and under Section 51 (1) of the said Act, there is no minimum punishment prescribed and the punishment prescribed is imprisonment up to 3 years with or without fine up to 25,000/-.

6. Considering the facts and circumstances of this case and considering the fact that petitioners have been facing criminal case from the year 2001 and they have remained in custody for the period of 69 days from 13.03.2001 to 18.04.2001 and 17.11.2008 to 18.12.2008, the sentence of the petitioners is hereby modified to 69 days i.e. period already under gone with fine of Rs. 25,000/- each. The petitioners are directed to deposit the fine amount within a period of two months from today. In case the fine is not deposited within two months from today, the bail bond of the petitioners shall stand cancelled and the petitioners will have to undergo the punishment as per the impugned judgments.

7. This revision application is hereby disposed of with modification of sentence as above.