
(1959) 03 MP CK 0009
In the Madhya Pradesh High Court
Case No : Criminal R. No. 3 of 1959

Kishanlal

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 13-03-1959

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 347
Penal Code, 1860 (IPC) — Section 381, 461

Citation : (1959) MPLJ 800

Hon'ble Judges : Shiv Dayal Shrivastava, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Shiv Dayal, J.

The Petitioner was convicted by the Additional City Magistrate, Indore, u/s 381, Indian Penal Code and was sentenced to suffer rigorous imprisonment for one and a half years and also u/s 461, Indian Penal Code and sentenced to pay a fine of Rs. 15, and in default a further imprisonment of 15 days. His appeal has been dismissed by the Sessions Judge. Aggrieved by the same, he has made this petition for revision.

The Petitioner was a servant of one Shri Holkar. While the master had gone out with his family, the Petitioner opened an almirah of the master and removed gold and diamond ornaments worth about Rs. 10,000. While he wanted to make good his escape, he was caught at the railway station with the ornaments. The Petitioner admitted his guilt before the trial Magistrate. In this petition also he admits his guilt but prays for a reduction in sentence.

Since it appeared to me prima facie that the accused was too leniently punished, I issue a notice to the Petitioner to show cause why the sentence awarded to him should not be enhanced.

I have heard the Petitioner as regards his revision petition as also on the

question of enhancement of the sentence.

The nature of the case called for a severe punishment. A domestic servant on whom his master reposes confidence and trust, if betrays the same and commits theft in his absence of such precious things as gold and diamond ornaments, he must be dealt with very severely if the guilt is proved. The offence u/s 381 is punishable with imprisonment which may extend to seven years and the offence u/s 461 is punishable with imprisonment which may extend to two years. In the present case, it was really a providential aid to the master that the servant was arrested immediately at the railway station and if there had been just a little delay in detecting the crime, he would have been deprived of all the valuable ornaments. The value of the stolen property is about Rs. 10,000. The learned trial Magistrate, while considering the question of sentence, observed that as the accused had betrayed that complete faith which his master had in him, he deserved "to be severely punished". Having reached that conclusion, and rightly, he should have found himself unable to punish the accused adequately because the maximum punishment which he could award within his powers was only two years. He should have, therefore adopted the procedure u/s 347, Code of Criminal Procedure code. Instead of doing that, he did not pass even the maximum sentence which he could, but awarded to the accused only one and half years" imprisonment u/s 381. Then again, it was ridiculous to pass a sentence only of fine of Rs. 15 for the offence u/s 461, Indian Penal Code.

The learned Sessions Judge also found that the offence was grave but he merely dismissed the appeal summarily saying that the sentence was not severe.

Ordinarily, this Court does not interfere on the question of sentence which is a matter in the discretion of the trial Magistrate. But I find that the sentences awarded under the two offences of which the Petitioner has been found guilty, are manifestly inadequate. However, on going through the record I find that the Petitioner has been repentant from the very beginning of the trial and he candidly admitted his guilt at the earliest stage. Therefore, instead of adopting a course which would subject the Petitioner to a more severe punishment, I think the ends of justice would be served if the Petitioner is awarded the maximum punishment which the trial Magistrate could have.

The sentences are therefore enhanced. The Petitioner shall suffer rigorous imprisonment for two years for the offence u/s 381 and also rigorous imprisonment for two years for the offence u/s 461, Indian Penal Code, both the sentences to run concurrently.