
(1994) 02 P&H CK 0060

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition No. 6560-M of 1991

Pritam Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 11-02-1994

Acts Referred:

Citation : (1994) 2 RCR(Criminal) 304

Hon'ble Judges : H.K.Sandhu, J

Advocate : A.R. Sidhu, V.K. Jindal, Advocates for appearing Parties

Judgement

Harmohinder Kaur Sandhu, J.

1. Pritam Singh petitioner was tried for the offence of murder by the Sessions Judge, Hoshiarpur, and was sentenced to undergo imprisonment for life vide judgment dated 12.6.1986. He was found aged 1718 years at the time of commission of offence and was confined in Borstal Jail, Ludhiana. During his confinement in jail it was alleged that he refused to work in the factory as directed and caught hold of Inderjit Lal Warder by his neck. For this jail offence he was awarded punishment of cut of 12 days remissions and was also confined under para 575 of the Punjab Jail Manual. The enquiry in the case was conducted by Deputy Superintendent of Jail, but when the petitioner was produced before the Superintendent he was stated to have confessed his guilt. The punishment awarded to the petitioner was approved by Sessions Judge, Ludhiana. The petitioner alleged that no enquiry was conducted as envisaged under Section 116 of the Prisons Act. No witness was examined in his presence nor opportunity was afforded to him to defend himself. Deputy Superintendent of Jail was not authorised to conduct the enquiry. Judicial appraisal was also not proper as no notice was given to him by the Sessions Judge concerned for appearance and personal hearing. the petitioner, thus, filed this petition under Articles 226/227 of the Constitution of India, read with Section 482 of the Criminal Procedure Code for quashing the punishment for the jail offence awarded on 26.4.1990 by the Superintendent Borstal Jail, Ludhiana.

2. In the return filed by the respondent this fact was admitted that the enquiry was conducted by Deputy Superintendent, Borstal Jail, Ludhiana, but it was alleged that when the petitioner was produced before the Superintendent Jail, he admitted his fault and his guilt having been proved, 12 days cut was imposed on his earned remissions and he was also ordered to be kept in a cell.

3. I have heard the learned counsel for the parties.

4. It was urged on behalf of the petitioner that admittedly for the alleged jail offence no enquiry was conducted by the Superintendent of Jail under Section 46 of the Prisons Act, 1894. The commission of the offence is to be determined by the Superintendent and the Superintendent is the punishing authority. The process of determination could not be delegated to any other authority subordinate to the Superintendent. In the instant case admittedly the enquiry was not held by the Superintendent of Jail but by an officer of lower rank. The jail punishment is, therefore, liable to be quashed on this ground alone. Joga Singh v. State of Haryana and others, 1988(1) Recent Criminal Reports 145 and Surjit Singh v. State of Haryana and others, 1990(1) All India Criminal Law Reporter 815 are the authorities to similar effect.

5. As a result I allow this petition and quash punishment for the jail offence awarded to the petitioner on 26.4.1990 by Superintendent Borstal Jail, Ludhiana.