(2009) 10 P&H CK 0110

In the Punjab And Haryana At Chandigarh

Case No : Criminal Revision No. 218 of 1991

Puranchand	APPELLANT
Vs	
R.K. Suman, ITO and Another	RESPONDENT

Date of Decision : 14-10-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 401
Income Tax Act, 1961 — Section 276C

Citation : (2009) 10 P&H CK 0110

Hon'ble Judges : Mohinder Pal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mohinder Pal, J.—This revision petition is directed against the judgment dated 14-3-1991, passed by the Additional Sessions Judge, Ambala, whereby the judgment of conviction and sentence order dated 17-8-1988, passed by the Chief Judicial Magistrate, Ambala, convicting the Petitioner u/s 276C of the Income Tax Act, 1961 (hereinafter referred to as "the Act") and sentencing him to undergo rigorous imprisonment for six months and to pay fine of Rs. 1,000, in default whereof to undergo further rigorous imprisonment for three months was upheld.

2. The instant case was initiated on the basis of a complaint dated 21-11-1982, filed by R.K. Suman, Income Tax Officer, A-Ward, Ambala Cantt, Respondent No. 1 (hereinafter referred to as "the complainant") against the Petitioner Puran Chand and three others, namely, Radha Krishan, Som Parkash and Sat Pal, partners of the firm known as M/s. Radha Krishan and Company (hereinafter referred to as the "Petitioner-firm"), which dealt in wholesale cloth business. Radha Krishan, Som Parkash and Sat Pal (co-accused of the Petitioner) were acquitted of the charge framed against them and the Petitioner Puran Chand was convicted and sentenced u/s 276C of the Act, as mentioned above.

3. The accused-Petitioner, along with his partners, dealt in the sale and purchase of wholesale cloth. On 10-8-1981, the stock and account books of the Petitioner-

firm were checked and a physical verification of the stocks found there was made. After preparation of the inventory, the closing stock was assessed at Rs. 4,40,278.23. The value of the stock according to the stock books was Rs. 2,23,501.90. The closing balance as per "Malkhata" Ledger Folio No. 182 from 1-4-1980 to 31-3-1981, was Rs. 2,66,050.77. A show-cause notice was issued to the accused to explain the difference between the actual stock and the stock as per books. The reply given by the accused was found to be unsatisfactory. The accused thus evaded payment of tax, penalty or interest that could have been charged or imposed under the Act.

4. I have heard the learned Counsel for the parties and have gone through the records of the case.

5. The reply to the show-cause notice was sent to the Income Tax Officer by the Petitioner Puran Chand under his signatures on behalf of the Petitioner-firm. In the reply, the Petitioner took the stand that all the purchases and sales made were duly vouched and that there was no discrepancy. He did not take the stand that he was not responsible for the conduct of the business affairs of the Petitioner-firm. Both the courts below found sufficient evidence to hold that the Petitioner was actively connected with the business of the Petitioner-firm and was responsible for maintaining the accounts and conduct of the business of the firm. If the accused had depicted the true stock position in the books of account, the Petitioner-firm would have been liable to pay more tax because the source of purchase of stock amounting to about Rs 2,16,776, i.e., Rs. 4,40,278.23 (assessed closing stock) minus - Rs. 2,23,501.90 (value of stocks according to stock books) had to be explained. In this way, the accused had been operating capital outside the books of account and thereby evading the payment of tax etc. imposable under the Act. The accused did not show the true stock in the stock books which enabled the accused to evade payment of tax legally bound to be paid. The Petitioner-accused, thus, by wilfully attempting to evade tax, penalty or interest chargeable, committed the offence punishable u/s 276C of the Act. He has been awarded the minimum sentence of rigorous imprisonment for six months besides fine u/s 276C of the Act. Under the circumstances, I do not see any ground warranting interference by this Court in exercise of its revisional jurisdiction u/s 401 of the Code of Criminal Procedure.

6. Resultantly, this revision petition is hereby dismissed being without any merit.