

(1994) 07 P&H CK 0076

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 14873-M of 1993

Ramesh Kumar

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 08-07-1994

Acts Referred:

Citation : (1994) 3 AICLR 525 : (1994) 3 RCR(Criminal) 313

Hon'ble Judges : V.K.Jhanji, J

Advocate : S.S Goripuria, P.C. Chaudhary, Advocates for appearing Parties

Judgement

V.K. Jhanji, J.

1. Petitioner Ramesh Kumar has filed the present petition under Section 482, Cr.P.C. read with Articles 226/227 of the Constitution of India, for quashing of jail punishment dated 29.1.1993 (Annexure P1) awarded by the Superintendent, Central Jail, Ambala.

2. Petitioner was convicted and sentenced to undergo imprisonment for life by the Ist Additional Sessions Judge, Rohtak, on 12.9.1985. Since then, he has continuously been undergoing sentence for imprisonment for life. Petitioner had filed a petition from jail in this Court i.e. Cr. Misc. No. 4444M of 1992 in which he had levelled certain allegations for not releasing him prematurely. The said petition was dismissed by this Court on 15.9.1992. After the dismissal of the petition, the Assistant Superintendent, Jail, on 29.1.1993 recorded that the petitioner had levelled different types of allegations against the Additional Director General of Prisons. As the petition was dismissed, the Additional Director of Prisons decided to take action against the petitioner. The Deputy Superintendent, Jail, vide note dated 29.1.1993 opined that to level wrong allegations against high officers is grave indiscipline and is a jail offence. Hence, the petitioner deserved deterrent punishment. Vide order of even date i.e. 29.1.1993, the Superintendent Jail, concurred with the note made by the Assistant Superintendent and Deputy Superintendent, Jail and punished the petitioner for violating jail rules under para 609 (5) of the Jail Manual.

Consequently, the petitioner was punished and 90 days" remissions were withdrawn and the matter was sent to the head office for approval of Additional Director and judicial appraisal of punishment from the Sessions Judge, Ambala. Session Judge, Ambala, vide letter dated 5.2.1993 from the office of the Superintendent District & Sessions Judge, informed the Superintendent, Jail stating thus :

"Please refer to your letter No. 867 dated 1.2.1993.

I am desired to inform you that the judicial appraisal on the above noted subject has been accorded by the learned. District & Sessions Judge, Ambala".

3. The present petition has been filed for quashing of jail punishment on the ground that no opportunity of hearing was given to the petitioner at the time of judicial appraisal.

4. In response to the notice of this petition, respondents have filed reply in which they have stated that making false allegations against high officers is a serious jail offence and for that the petitioner was awarded punishment of 90 days" remission which was judicially appraised by the District & Sessions Judge, Ambala.

5. Counsel for the petitioner has contended that the proceedings before the Additional Sessions Judge were quasijudicial in nature and the petitioner should have been given an opportunity of hearing before judicial appraisal was done by the Sessions Judge. Counsel for the petitioner has relied upon the judgment of this court in *Leelu Ram v. State of Haryana and Another*, 1991(3) Recent Criminal Reports 125 .

6. It is not disputed before me that no notice was given to the petitioner by the Sessions Judge when judicial appraisal was carried out. In *Leelu Ram's* case (supra), reliance has been made on the following observation of Ujagar Singh, J in *Nirbhai Singh & Others v. State of Punjab*, 1988(1) Recent Criminal Report 356 :

"So far as the appraisal by the learned Sessions Judge, vide his order dated 26.3.1987, is concerned, the order passed on that date does not show that the petitioners were given any opportunity to bring to the notice of the Sessions Judge the facts leading to the jail punishment and that they had no opportunity to point out the illegalities committed during the enquiry by the jail authorities. This order of judicial appraisal is a quasijudicial order and that too passed by a Senior Judicial Officer of the Superior Judiciary of this High Court and it is always expected that while judicially appraising the jail punishment a notice is required to be issued to the convicts to whom jail punishment is awarded for ends of justice. If such opportunity is given these matters can be decided satisfactorily at that level just by cursorily going through the punishment record."

7. Counsel for the State has not been able to cite any judgment taking a contrary view so as to dissuade me from taking the view as taken in the aforesaid

judgment in Leelu Ram"s case (supra).

8. Consequently, this petition is allowed and order dated 29.1.1993 (Annexure P1) is quashed. In consequence, punishment of withdrawal of 90 days" remissions shall stand quashed.