

(1998) 11 P&H CK 0086

In the Punjab And Haryana At Chandigarh

Case No : Criminal Revision Petition No. 698 of 1998

Sadru

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 05-11-1998

Acts Referred:

Citation : (1998) 4 AICLR 357 : (1999) 1 RCR(Criminal) 450

Hon'ble Judges : M.L.Singhal, J

Advocate : Anuradha Lamba, G.S. Gill, H.S. Gill, Advocates for appearing Parties

Judgement

M.L. Singhal, J.

1. Sadru accused was convicted under Section 8 of the Punjab Prohibition of Cow Slaughter Act, 1995 for having contravened the provisions of Section 4A of the Act and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs. 3,000/ or in default of payment of fine, to undergo further rigorous imprisonment for six months, by Sub Divisional Judicial Magistrate, Nuh vide order dated October 27, 1997, in case F.I.R. No 45 dated February 16, 1996, Police Station Nuh.

2. Sadru (convict) went in appeal to the Court of Session and assailed his conviction and sentence.

3. The learned Additional Sessions Judge, Gurgaon dismissed his appeal vide order dated July 11, 1998. Sadru convict has not felt disheartened with his conviction and sentence by the two Courts below and has come up in Revision to this Court.

I have heard the learned counsel for the petitioner and the learned Assistant Advocate General, Haryana and gone through the record.

4. The prosecution case which has given rise to the petitioner's conviction and sentence, briefly stated, is that on February 16, 1996 the police party headed by A.S.I. Bajinder Singh, Constable Ramphal and Sis Ram was present at Taoru

turning at Nuh bypass in connection with patrolling and crime detection. A.S.I. Bajinder Singh received secret information that Sadru accused was in the habit of slaughtering cows and he would be taking cows to Chuharpur (Rajasthan) from Haryana with a view that they be slaughtered. The police party remained present at the place of Nakabandi. After some time, Sadru accused was found coming towards Nakabandi with five weak and slim cows, on way of Rajasthan. He was overpowered by the police. The cows were taken into possession.

4. Case F.I.R. No. 45 dated February 16, 1996 was registered at Police Station Nuh.

5. Section 4A of the Punjab Prohibition of Cow Slaughter Act, 1955 reads as follows :

"No person shall export or cause to be exported cow for the purpose of slaughter either directly or through his agent or servant or any other person acting on his behalf in contravention of the provisions of this Act or with the knowledge that it will be or it was likely to be slaughtered."

6. In this case, there is absolutely no evidence to suggest that the cows were being taken for being slaughtered. In this case, since the accused happened to be a Muslim, the Courts appear to have presumed that he was taking the cows for being slaughtered. In my opinion, no such presumption could be raised against the accused though he is a Muslim. It could not be presumed that as the accused was a Muslim, he was necessarily taking the cows for being slaughtered. It was a matter of proof for the prosecution that the accused was taking the cows for being slaughtered. Use of words "for the purpose of slaughter" is significant. These words suggest that it should be proved by the prosecution that the cows were being exported for being slaughtered.

7. Law does not allow the raising of such presumption. Further, no Veterinary doctor was produced to show that the cows were really weak and could only be slaughtered and then their hide etc. used.

8. For the reasons given above this Criminal Revision Petition succeeds and is accepted. The conviction and sentence recorded by the two Courts below is set aside. Fine if recovered shall be refused to the petitioner.

Revision allowed.