

(2003) 01 P&H CK 0127
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 78 of 1995

Satya Pal Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 29-01-2003

Acts Referred:

Citation : (2003) 1 CCJ 279 : (2003) 1 RCR(Criminal) 812

Hon'ble Judges : R.L.Anand, J

Advocate : Shri N.S. Pawar, Sr. Advocate with Shri Sunil Pawar, Advocate. Shri Sanjay Vashist, DAG Haryana., Advocates for appearing Parties

Judgement

R.L. Anand, J.

1. This is a criminal revision filed by petitioner Satya Pal Singh and has been directed against the judgment dated 1.2.1995 passed by the Court of Additional Sessions Judge (II), Bhiwani, who has maintained the conviction and the sentence of the petitioner passed by the Judicial Magistrate Ist Class, Bhiwani who also came to the conclusion as per the provisions of Section 10 of the Haryana Development and Regulation of Urban Areas Act, 1975 (for short "the Act") that the offence stands proved against the accused. The learned trial Court was also bound to pass sentence of imprisonment which it had not done so. Therefore, it has committed an illegality. Resultantly, the Additional Sessions Judge, Bhiwani, besides imposing a fine of Rs. 2500/ has also directed the petitioner to undergo simple imprisonment for a period of three months. Consequently, the impugned judgment of the learned Magistrate was modified to that extent.

2. A criminal complaint under Section 10 of the Act was filed against Shri Satypal Singh. The complaint was contested. The learned Magistrate vide his judgment and order dated 21.9.1993 came to the conclusion that the offence under Section 10 of the Act stands proved. The Court was inclined to take a lenient view in view of the fact that the petitioner was a poor person and that there was no previous conviction to his credit. Resultantly, the learned Magistrate imposed

a fine of Rs. 2500/ keeping in view the ends of justice. Shri Satypal Singh being not satisfied with the judgment and order of the learned Magistrate, filed an appeal before the Court of Additional Sessions Judge, Bhiwani. The State did not file any appeal or revision against the order of the learned Magistrate. The learned Additional Sessions Judge vide impugned order dated 1st February, 1995 has not only dismissed the appeal but also modified the sentence by imposing simple imprisonment for a period of three months upon the petitioner. Hence the present revision.

3. I have heard learned counsel for the parties and with their assistance, have gone through the record of the case.

4. I am of the opinion that the impugned order dated 1st February, 1995 cannot be sustained in the eyes of law. As also stated earlier, the State did not file any appeal before the first Appellate Court. The learned Additional Sessions Judge could treat the appeal as revision which he has not done so. Even if it is assumed that he wanted to impose simple imprisonment for a period of three months, still it was obligatory upon him to remand the case to the learned Magistrate for passing an appropriate sentence according to law. He has not done so. He has sentenced the petitioner at his own level depriving one legal right of appeal of the petitioner. In these circumstances, the impugned judgment of the learned Additional Sessions Judge to the extent of imposing imprisonment of three months cannot be sustained in the eyes of law.

5. Now, the point which survives for consideration is as to whether this Court should remand the case to the learned Magistrate or it should pass an appropriate order in the given circumstances. The complaint was filed on 3rd January, 1989. The petitioner has suffered the vagaries of the criminal proceedings for the last 14 years. In such a situation, it may not be proper for me to send back the case to the learned Magistrate for passing appropriate order in the matter of sentence. Counsel for the petitioner submitted that his client is ready to pay fine of Rs. 2500/. He is further ready to suffer imprisonment till the rising of the Court. I am of the opinion that the ends of justice will suffice if the petitioner is directed to undergo sentence till the rising of the Court. He shall pay the fine of Rs. 2500/ if not already paid. The petitioner shall appear before the Chief Judicial Magistrate, Bhiwani on 3rd March, 2003 to serve the sentence till the rising of the Court. A copy of this order be sent to the Chief Judicial Magistrate, Bhiwani, for compliance.

With this modification in the matter of sentence, the revision stands disposed of.

JUDGMENT accordingly.