
(1994) 07 P&H CK 0064

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 14058-M of 1993

Shishpal Singh

APPELLANT

Vs

Superintendent, District Jail, Jind

RESPONDENT

Date of Decision : 21-07-1994

Acts Referred:

Citation : (1994) 3 RCR(Criminal) 516

Hon'ble Judges : H.S.Bedi, J

Advocate : Neena Maidan, V.K. Jindal, Advocates for appearing Parties

Judgement

H.S. Bedi, J.

1. The petitioner, who was undergoing sentence in the District Jail, Jind was searched by the Gate Keeper Mahavir Prasad and some intoxicating drugs and also Rs. 430/ in cash were recovered from him. He was accordingly handed up for having violated the provisions of the Jail Manual and vide order dated April 12, 1991, a jail punishment was imposed upon him by the Superintendent of the Jail. The proceedings of the case were remitted to the District and Sessions Judge concerned vide memo No. 713 of 19.4.1991 who appraised the action against the petitioner vide Memo No. 1530 dated 24.9.1991. By this petition, these two orders have been impugned. Mr. V.K. Jindal, learned counsel has firstly urged that the Deputy Superintendent of the Jail was not competent to hold the enquiry nor to impose the punishment as this was a matter within the exclusive domain of the Superintendent of the Jail concerned by virtue of the provisions of Section 46 of the Prisons Act and, secondly, while according judicial appraisal, the Sessions Judge had not given any hearing to the petitioner as he was required to do. In support of his latter plea Mr. Jindal has placed reliance on Criminal Misc. No. 11283M of 1992 Maghar Singh v. The Inspector General of Prisons, Punjab and another, decided on 11.8.1993. In the reply filed on behalf of the respondents, the facts as stated, have not been denied but the inferences drawn have been controverted.

2. After hearing the learned counsel for the petitioner I find that the petition

deserves to succeed though partly as the argument lacks merit. It will be seen that the prisoner was produced before the Assistant Superintendent Jail on 12.4.1991 who forwarded the case to the Deputy Superintendent on the very same day. The Deputy Superintendent after giving his comments, forwarded the case to the Superintendent and it was the Superintendent himself who recorded the statements of all the witnesses including Mahavir Prasad, the Gate Keeper and this evidence was recorded in the presence of the prisonerpetitioner and thereafter imposed the punishment. The second argument of Mr. Jindal has merit. Admittedly, while granting judicial appraisal of the punishment, the Sessions Judge did not give a personal hearing to the petitioner nor was he called upon at any stage to produce any defence. In the reply of the respondents, it has been admitted that the Sessions Judge had not heard the petitioner personally but the explanation tendered is that he was not required to do so under the law. This assertion is contrary to the cited case, in which it has been clearly stated that while granting judicial appraisal, the Officer concerned was acting in a quasijudicial manner and as such, notice was required to be issued to the convict and be personally heard. Admittedly, in this case, this has not been done.

3. For the reasons recorded above, this petition is partly allowed and the order of the Sessions Judge dated 24.4.1991 is set aside with a direction that the Sessions Judge, Jind will reappraise the matter after hearing the parties concerned.