

(2011) 07 MP CK 0102
In the Madhya Pradesh High Court
Case No : M.Cr.C. No. 5169 of 2011

Siddhnath

APPELLANT

Vs

M.P. Pashchim Kshetra Vidyut Vitran Company Ltd.

RESPONDENT

Date of Decision : 19-07-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 360, 362
Electricity Act, 2003 — Section 135(1)
Probation of Offenders Act, 1958 — Section 4

Citation : (2012) 2 MPJR 53

Hon'ble Judges : N.K. Mody, J

Bench : Single Bench

Advocate : Manoj Saxena, for the Appellant; Sudha Shrivastava, for the Respondent

Judgement

N.K. Mody, J.—This is a petition for modification of the judgment dated 5.5.2011 passed in Cr.A. No. 870/2010. Short facts of the case are that petitioner was punished u/s 135 (1) of Electricity Act and was convicted vide judgment dated 22.7.2010 for imprisonment of one month with fine of Rs. 25,000/-, against which appeal was filed, which was registered as Cr.A. No. 870/2010 and decided on 5.5.2011, whereby the appeal was dismissed.

2. Learned counsel for petitioner submits that petitioner is a poor man. It is submitted that the only allegation against the petitioner is that petitioner has stolen the energy. It is submitted that one opportunity be given to the petitioner under the provisions of Probation of Offenders Act.

3. Smt. Sudha Shrivastava, learned counsel for respondent submits that till so far the fine amount has not been deposited by the petitioner. It is submitted that since the judgment has been passed and conviction is maintained, therefore, no interference can be made. It is submitted that petition be dismissed.

4. In the matter of Chhanni vs. State of U.P., reported in (2006) 2 SCC (Cri.) 466, wherein Hon'ble Apex Court had a occasion to examine the provisions of

Section 362 and 360 Cr.P.C., it was held that prayer to modify the judgment after conviction by directing the petitioner to be released on probation u/s 4 of the Probation of Offenders Act or in alternative u/s 360 any provision for modification of the judgment can be considered. Considering all the facts and circumstances of the case and keeping in view that petitioner was convicted u/s 135 (1) of Electricity Act for theft of electricity and the bill amount was Rs. 8,000/-, petition filed by the petitioner is allowed. After giving benefit of Probation of Offenders Act, it is directed that in case petitioner deposits the fine amount with the respondent within a period of four weeks, if not deposited till so far, petitioner will be entitled for benefit of Probation of Offenders Act and will not be liable to sent in jail.

With the aforesaid observations petition stands disposed of.