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(1993) 10 P&H CK 0064

In the Punjab And Haryana At Chandigarh

Case No : Criminal Revision No. 1203 of 1985

Smt. Ram Piari APPELLANT

Vs

State and Another RESPONDENT

Date of Decision : 04-10-1993

Acts Referred:
Income Tax Act, 1961 — Section 276C, 276C(1), 277

Citation : (1993) 10 P&H CK 0064

Hon'ble Judges : A.S. Nehra, J

Bench : Single Bench

Advocate : J.N. Kushal and Ashok Jindal, for the Appellant; R.P. Sawhney, for the Respondent

Judgement

A.S. Nehra. J,

1. The petitioner was convicted under Sections 276C(1) and 277 of the Income Tax Act, 1961, and was sentenced to undergo simple imprisonment for six months u/s 276C(1) and further sentenced to undergo simple imprisonment for six months u/s 277 of the Income Tax Act by the Chief Judicial Magistrate, Chandigarh, on February 21, 1984. Both the sentences were ordered to run concurrently. The appeal filed by the petitioner was dismissed by the Additional Sessions Judge, Chandigarh, on September 10, 1985. Hence, this revision petition.

2. The facts relevant are that, for the accounting year April 1, 1976, to March 31, 1977, the assessment year being 1977-78, the accused submitted the return of income to the Income Tax Officer, Chandigarh, declaring a rental income of Rs. 20,985. The said return was verified by the accused to the effect that the information given in the return and annexure is correct to the best of her knowledge and belief. It is alleged that the accused sold property Nos. 126, 127, Sector 22, Chandigarh, for Rs. 3,85,000 to Dr. Amrik Singh and another on April 29, 1976 ; that the said fact came to the notice of the Department and later on a notice was issued to the accused for reopening of her case ; that the accused did

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not submit any fresh return ; that on enquiry the Income Tax Officer held that the accused has made a capital gain of Rs. 1,27,000 by the sale of the property and concealed the above income while filing the return and that the accused did not file a complete return and concealed the income and also made a wrong verification.

3. In support of the case, the prosecution examined Shri S.P. Uppal, Income Tax Officer, as P. W.-1, and also tendered in evidence the documents, exhibits P-1 to P-6.

4. The accused in her plea u/s 313, Criminal Procedure Code, denied the allegations and alleged that no return was filed with the express knowledge with regard to the contents ; that she is an illiterate lady and a housewife and she only knows how to sign ; that she was the owner of the property and has not earned any income by way of sale ; that the Income Tax Officer made a false case because her counsel failed to appear before him ; that the property is an old one and that the value assessed was not correct and proper according to the Schedule in the Act. She did not produce any defence.

5. Mr. J.N. Kaushal, senior advocate, for the petitioner, did not address any arguments before me so far as the conviction of the petitioner is concerned. His solitary contention was that speedy trial was the essence of justice, that inordinate delay in the disposal of the case itself caused sufficient agony to the petitioner, that the petitioner is an illiterate lady and that, therefore, it was a fit case where the petitioner should not be sent to jail at this stage and the sentence awarded to the petitioner may be reduced to the period during which she remained confined to jail. He further contended that the complaint was filed on March 31, 1983, i.e., more than 10 1/2 years back, that the present revision petition is pending since 1985, that she is on bail and that this prolonged litigation itself is a ground for treating the petitioner in a lenient manner. In support of this contention, learned counsel for the petitioner placed reliance on a judgment of the Supreme Court in Braham Dass Vs. State of Himachal Pradesh, .

6. After hearing learned counsel for the parties, I find force in the argument of learned counsel for the petitioner. For more than 10 1/2 years, the petitioner has faced protracted litigation and thus has undergone sufficient mental harassment. So, keeping in view the circumstances of the case, I find it a fit case where no useful purpose will be served by sending the petitioner to jail at this stage for undergoing the remaining period of sentence. As a result, I partly allow this revision petition and limit the sentence of imprisonment of the petitioner to the period already undergone.

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