

(1990) 01 P&H CK 0028

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 3732 of 1989 (O&M)

Sukhmandar Singh

APPELLANT

Vs

State of Punjab and ors.

RESPONDENT

Date of Decision : 15-01-1990

Acts Referred:

Citation : (1990) 3 RCR(Criminal) 122

Hon'ble Judges : Jai Singh Sekhon, J

Advocate : -Mr. M.P. Gupta, V.K. Jindal, Advocates for appearing Parties

Judgement

Jai Singh Sekhon, J.

1. Sukhmandar Singh petitioner, was allegedly found in possession of 47 intoxicant tablets, and currency notes of Rs. 31/ on 2551983 while confined in Faridkot Jail. The Superintendent of Jail relying upon his plea of guilty awarded various punishments under Section 46 of the Prisons Act, 1894. The petitioner has sought quashment of these punishments mainly on the ground that no regular enquiry was held. It is further maintained that the plea of guilty was not recorded and that the appraisal of the concerned Sessions Judge was not obtained.

2. In the return filed by the respondent, it is not disputed that the appraisal of the concerned Sessions Judge was not obtained but it is maintained that the proper procedure was followed. The petitioner was given full opportunity to defend his case and cross-examine the witnesses but he failed to do so. On the other hand, it is maintained that he had pleaded guilty to the charge and was punished, accordingly.

3. In view of the ratio of the decision of the Supreme Court in Sunil Batra v. Delhi Administration, AIR 1980 Supreme Court 1579, the Superintendent was required to get prior concurrence of the Sessions Judge before passing the impugned order of punishment to the prisoner or at least he should have submitted the order of conviction for appraisal of the Sessions Judge within two days thereof. It

appears that no such appraisal was taken from the Sessions Judge. Under these circumstances, there is no option but to quash the impugned order of punishment. It is ordered to be quashed by accepting the writ petition.