
(1990) 01 P&H CK 0044

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 2866 of 1989

Surat Singh

APPELLANT

Vs

State of Punjab and arn.

RESPONDENT

Date of Decision : 30-01-1990

Acts Referred:

Citation : (1990) 1 RCR(Criminal) 679

Hon'ble Judges : Jai Singh Sekhon, J

Advocate : V.K. Jindal, P.K. Mutneja, Advocates for appearing Parties

Judgement

Jai Singh Sekhon, J.

1. The detenu was awarded various punishments while undergoing imprisonment under Section 46 of the Prisons Act, 1894 for having committed certain offences. The first punishment relates to November 1982 regarding which admittedly no judicial appraisal or concurrence from the concerned Sessions Judge, was obtained as laid down in *Sunil Batra v. Delhi Administration*, AIR 1980 SC 1579. The detenu was also sentenced to various imprisonments by the Superintendents Jail on October 9, 1987 and March 25, 1998 and these orders were submitted for appraisal of the learned Sessions Judge, Gurdaspur. The learned Sessions Judge, Gurdaspur had given his approval to the proposed sentences without application of mind by simply writing as under :

"I am to return herewith all the papers after according judicial appraisal for the proposed sentence".

Annexure II appended to the written statement shows that no notice was given to the prisoner by the learned Sessions Judge while passing the above referred order. The prisoner was not even given an opportunity of being heard. Similar controversy was settled by this Court in *Mohinder Singh v. State of Punjab*, 1988(1) Recent Criminal Reports 103, while holding that the concerned Sessions Judge is required to pass a selfspeaking order while appraising the sentence awarded to the prisoner by the Superintendent Jail under the abovereferred Act.

Again in *Nirbhai Singh & ors. v. State of Punjab*, 1988(1) Recent Criminal Reports 356 it was held by this Court that the concerned Sessions Judge is required to give effective hearing to the prisoner before appraising the sentence awarded by the Superintendent Jail under Section 46 of the Prisons Act, 1984.

2. In the case in hand, the sentence awarded on 22111982, was not even appraised by the concerned Sessions Judge and regarding the sentence awarded in October 1987 and March 1988 the learned Sessions Judge has, not given effective hearing to the prisoner before appraising the sentence awarded. He has not passed a selfspeaking order in this regard, which clearly shows nonapplication of mind to the facts and circumstances of the case.

For the foregoing reasons, this writ petition succeeds and the sentences above referred are ordered to be quashed.