

(1990) 12 DEL CK 0004

In the Delhi High Court

Case No : Criminal Revision Appeal No. 236 of 1983

Surinder Lal

APPELLANT

Vs

State (Delhi Administration)

RESPONDENT

Date of Decision : 20-12-1990

Acts Referred:

Citation : (1991) 43 DLT 355

Hon'ble Judges : S. Duggal, J

Bench : Single Bench

Advocate : P.S. Sharma and G.S. Vashisht, for the Appellant;

Judgement

Santosh Duggal, J.

(1) This revision petition was filed after petitioner's appeal against conviction u/s 380 Indian Penal Code was dismissed by the Additional Sessions Judge, New Delhi by order dated 5th September, 1983.

(2) The petitioner had been sent up for trial for an offence u/s 380 Indian Penal Code on the allegation that he committed theft of some cash and gold ornaments kept in house no. 37, Kailash Apartment, Lala Lajpat Rai Road, New Delhi on 26th June 1977 belonging to R.L. Bhargava and his family. It was also alleged that some of the ornaments were found on the person of the wife of the accused Sunder Lal.

(3) The prosecution examined the complainant, his wife as well as investigating officer and although the accused pleaded not guilty and also denied the allegations in the prosecution case, the court on the basis of the evidence and other material on record, held the charge proved against the accused. He was accordingly convicted for the offence u/s 380 Indian Penal Code by judgment dated 24th February, 1981 and sentenced to R.I. for one year and to a fine of Rs. IUOO.00 ; the sentence in default of payment of fine being R.I for six months.

(4) On appeal being filed, both the conviction as well as sentence were

maintained and the accused was ordered to be taken into custody to undergo the sentence.

(5) On revision being filed, it was admitted on the first date of hearing. The order of suspension of the sentence was passed on petitioner's furnishing personal bond in the sum of Rs. 1000.00 with one surety in the like amount to the satisfaction of the Acmm, New Delhi. Mr. P.S. Sharma appearing today for the petitioner is not in a position to say as to whether the surety bond was furnished or not or whether the fine has been paid or not. There is, however, no surety bond or bail bond on the records of the case.

(6) I have gone through the judgments of both the courts below with the assistance of the counsel appearing on both sides. I find that there is correct appreciation of evidence and defense of the accused was rightly rejected. I, Therefore, find it to be a fit case to affirm the finding of the courts below both on the point of conviction and sentence. In view of the fact, however, that the case is of the year 1977, and to all appearances, the accused has undergone some sentence of imprisonment, I think it a fit case to reduce the sentence of substantive imprisonment to the one already undergone.

(7) I accordingly dismiss the revision in so far as the conviction is concerned, and maintain the same, but partly allow it on the question of sentence to the effect that sentence of imprisonment stands reduced to the one already undergone by the petitioner, but sentence of fine is maintained. In case the fine has not been paid or sentence in lieu thereof has not been undergone, then the trial court shall proceed further in the matter after getting report from the jail authorities.

(8) A copy of this order be placed on the record of the trial court and the same be back immediately.