

Laxmichand Mohanraj Lothari

Vs

State of Maharashtra

Criminal Appeal No. 217 of 1972

(Jaswant Singh, O Chinnappa Reddy JJ)

27.10.1978

JUDGMENT

JASWANT SINGH J. -

1. At the hearing of this appeal by special leave against the judgment and order dated October 5/6, 1972 of the High Court of Bombay upholding the conviction of the appellant under three counts viz. under Section 135(a) and (b) of the Customs Act, 1962 and Rule 126-P(2) (iv) of the Defence of India (Amendment) Rules, 1962 and the substantive sentence of 9 months' rigorous imprisonment and a fine of Rs. 1,000 on each of the said three counts, Mr. Porus Mehta appearing in support of the appeal has not assailed, and we think rightly so, the legality of the convictions of the appellant. He has merely urged that in the totality of the circumstances of the case including the fact that the appellant was merely a servant, the substantive sentences of imprisonment awarded to him are harsh and should be reduced to the period already undergone by him. Although we are unable to accede wholly to the submission on Mr. Mehta in view of the provisions of Rule 126-P(2)(iv) of the Defence of India Rules, 1962 bearing on the question of sentence and the fact that the economic offences of the nature for which the appellant has been convicted are on increase and require to be curbed with a strong hand yet having regard to the fact that the aforesaid offences were committed as long ago as September, 1967 and the proceedings have been going on for well nigh over a decade during which period the accused must have gone through a lot of mental and financial strain and he was merely a servant, we are inclined to think that it would meet the ends of justice if the substantive sentence of imprisonment awarded to him is reduced to six months' rigorous imprisonment under each of the aforesaid three counts. Accordingly, while maintaining the conviction of the appellant under the aforesaid counts, we reduce the substantive sentence of imprisonment under each of the said counts to six months' rigorous imprisonment. The substantive sentences of imprisonment shall run concurrently as directed by the courts below. With this modification in sentence, the appeal is dismissed.

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