

Munna Alias Vijay Kant

Vs

State of Rajasthan

Review Petition No. 269 of 1982

(D. A. Desai, V. B. Eradi JJ)

30.08.1982

ORDER

1. Petitioner Munna alias Vijay Kant was prosecuted in Sessions Case No. 201 of 1974 for having committed offences under Sections 307 and 452, Penal Code. He was convicted for the aforementioned offences by the learned Sessions Judge as per his judgment dated October 31, 1974 and sentenced to suffer rigorous imprisonment for three years and a fine of Rs 500 in default to suffer rigorous imprisonment for six months for the offence under Section 307, IPC. He was further sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs 200 for the offence under Section 452, IPC. The substantive sentences were directed to run concurrently. Criminal Appeal No. 706 of 1974 to the Rajasthan High Court preferred by the petitioner was dismissed and the conviction and sentences were affirmed. Petitioner preferred Petition for Special Leave to Appeal (Criminal) No. 2722 of 1980 to this Court which did not meet with success. In the meantime the petitioner had surrendered on November 3, 1980, and since then he is undergoing imprisonment. Subsequently, petitioner preferred review petition through the jail authorities. Amongst others, it was pointed out that on the date of the offence he was aged 16 years 3 months and 23 days, his date of birth being January 1, 1958. He produced a photostat copy of his birth certificate.

2. On this review petition a notice was ordered to be issued to the State of Rajasthan. In response to the notice Shri B.D. Sharma, learned standing counsel for the State of Rajasthan appeared. In view of the evidence of age produced by the petitioner, the court granted review petition and set aside the order dismissing the special leave petition of the petitioner and granted special leave to appeal against the sentence awarded to the petitioner. Mr Sharma was thereafter heard on the question of sentence.

3. It appears that the petitioner caused one injury to Nathu Lal which according to the medical evidence was dangerous to life. That provides the genesis for his conviction under Section 307, IPC.

4. Having regard to the age of the petitioner on the date of the offence and looking to the circumstances in which the offence was committed and the nature of the injury and the harm caused to the victim, we are satisfied that it is a fit case in which sentence deserves to be modified. The petitioner is in jail since November 3, 1980. He has already suffered imprisonment for one year and nine months. We are, therefore, of the opinion that this is a case in which if the sentence of the petitioner is reduced to the sentence already undergone it would meet the ends of justice.

5. We accordingly allow the appeal limited to the question of sentence and modify the sentence including the sentence of fine of sentence already undergone. Accordingly the petitioner may be set at liberty forthwith if not required in any other case.

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