

SUPREME COURT OF INDIA

Harbhajan Singh

Vs.

State of U.P.

(K Thomas and M Shah JJ.)

15.12.1999

ORDER

1. Leave granted.

2. Appellant in this case was convicted under Section 5(1)(d) of the Prevention of Corruption Act, 1947 and also under Section 161 of the Indian Penal Code. He was sentenced to undergo imprisonment for 15 months. When he filed an appeal before the High Court it appears that the High Court reduced the sentence to the period already undergone by him without considering whether the conviction is sustainable or not. The said course was adopted on the premise that an application was filed on his behalf stating that he did not want to challenge the conviction. Appellant does not own the said application and he thereupon filed a review petition before the High Court stating that he never authorised his advocate to concede to the conviction. The review petition was dismissed as per the order dated 8.5.1998 on the ground that High Court has no power to review.

3. It is not necessary for us to consider whether the advocate of the appellant was really authorised by him to plead guilty when the matter was before the appellate court. When the appellant has said that he is not prepared to yield to a conviction on such a plea it is necessary for the appellate court to consider the evidence afresh and reach the conclusion regarding the crucial issues involved. Question of sentence will arise only if conviction is to be upheld.

4. In this context we may refer to the decision of this Court in STATE OF UTTAR PRADESH v. CHANDRIKA deprecating such pre-bargain, particularly in cases involving serious offences.

5. For the aforesaid reasons we set aside the Judgment dated 26th September, 1997. We request the High Court to dispose of the appeal afresh in accordance with law after affording reasonable

opportunity to the appellant and the Public Prosecutor for addressing arguments.

6. This appeal is disposed of accordingly.