SUPREME COURT OF INDIA

Jagvir Singh & Ors

Vs.

State (Delhi Admn.)

Appeal (crl.) 67 of 2002

(Dr. Arijit Pasayat and D.K. Jain)

05/06/2007

JUDGEMENT

Dr. ARIJIT PASAYAT, J.

1. Challenge in this appeal is to the order passed by a learned Single Judge of the Delhi High Court upholding the conviction of appellants as done by learned Additional Sessions Judge in Sessions Case No.25/1984 for offence punishable under Sections 342, 365 and 330 read with Section 34 of the Indian Penal Code, 1860 (in short the 'IPC'). Learned Single Judge observed that conviction was not questioned and what was submitted related to quantum of sentence. The High Court noted that he required learned counsel appearing for the appellants to address the Court on question of conviction, which was denied. Only quantum of sentence aspect was highlighted. The High Court felt that in view of the concessions made relating to the conviction, the sentence cannot be held to be disproportionate keeping in view the nature of the offence.

2. Learned counsel for the appellants submitted that there appears to be some confusion because there was never any instruction given by the appellants not to question the conviction as recorded. In fact, according to them, the conviction was without any material and basis.

3. Learned counsel for the respondent-State on the other hand submitted that having conceded before the High Court that the conviction was in order, the present appeal is mis-conceived.

4. If really there was no concession, the only course open to the appellants was to move the High Court in line with what has been said in State of Maharashtra v. Ramdas Shrinivas Nayak and Anr (1982 (2) SCC 463). In Bhavnagar University v. Palitana Sugar Mill Pvt. Ltd. and Ors (2002 AIR SCW 4939) the view in the said case was reiterated by observing that statements of fact as to what transpired at the hearing, recorded in the judgment of the Court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence. If a party thinks that the happenings in Court have been wrongly recorded in a judgment, it is incumbent upon the party, while the matter is still fresh in the minds of the Judges, to call the attention of the very Judge who has made the record. That is the only way to have the record corrected. If no such step is taken, the matter must necessarily end there. It is not open to the appellants to contend before this Court to the contrary.

5. We, therefore, decline to interfere in the matter. However, we make it clear that if any motion is made before the High Court as to the claim that no concession was made, the same shall be considered in the proper perspective in accordance with law.

6. The appeal is accordingly dismissed.