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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: August, 10, 2010

Date of Order: September 6th 2010

+ Crl. Revision Petition No.414/2010

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Kumkum (male Hizara)

06.09.2010

...Petitioner

Versus

State

...Respondents

Counsels:

Mr. V.K. Chaudhary for petitioner.

Mr. Sunil Sharma, APP for State/respondent.

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. This criminal revision petition under Section 397 Cr.P.C has been preferred by the petitioner for setting aside the judgment and order dated 2nd July, 2010 passed by learned ASJ in Criminal Appeal No.13 of 2010 whereby the appeal of the petitioner under Section 34 of Bombay Prevention of Begging Act, 1959 (for short, "the Act") was dismissed.

2. The only argument advanced by the counsel for the petitioner is that the learned Magistrate ordered that the petitioner be detained in a certified institute for a period of one year. He submitted that the proceedings under the Act were summary trial in nature and the learned MM had no powers to award sentence of more than three months under summary trial and sending the petitioner to a certified institute for one year would amount

to sentencing the petitioner for one year. Therefore, the sentence was in excess of the powers of learned MM.

3. I find no merits in this argument. Under Section 5 of the Act, the trial court is obliged to send a beggar to a certified institution for a minimum period of one year. The petitioner in this case had pleaded guilty to the offence of begging and it is not the case of the petitioner that there were circumstances to show that the petitioner was not likely to beg again. Rather the case of the petitioner is that the begging was the customary profession of the petitioner since the petitioner belonged to eunuch community and therefore petitioner was bound to beg.

4. Keeping in view these submissions, I consider that the trial court rightly passed sentenced as provided under law. I find no force in this revision petition. The revision petition is hereby dismissed with no orders to costs.

September 06, 2010
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SHIV NARAYAN DHINGRA, J