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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 4418 of 2017 (O/M)
Date of decision : 20.12.2017

Vijay Kumar

..... Revisionist

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Hemant Bassi, Advocate, for revisionist.

Ms. Monika Jalota, DAG Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
- . -

KULDIP SINGH J. (ORAL)

Heard.

Custody certificate filed in Court today and same is taken on record.

Revisionist was driving a canter bearing registration No. HR-37-B-8365, from which 900 cartons of country made illicit liquor for sale in Chandigarh were recovered. Out of which, 400 cartons were of make Sophia containing 48 quarters of liquor and 500 cartons were of Rasila Santra, each containing 12 bottles of liquor. Revisionist was convicted under Section 61 (1) (a) of Punjab Excise Act, 1914, by the learned Judicial Magistrate 1st Class, Rajpura, and awarded rigorous imprisonment for one year and to pay fine of Rs. 2000/-, in default thereof, to further undergo simple imprisonment for 10 days, vide judgment of conviction and order of sentence dated 10.8.2017 which was upheld in appeal.

Notice was issued only on the point of quantum of sentence.

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As per the custody certificate, revisionist has already undergone actual sentence of 1 month and 10 days. No other case is pending and decided against him. The offence carries minimum imprisonment for six months.

The learned counsel for revisionist prays for granting benefit of probation.

Since it is a case of smuggling of liquor and the offence carries minimum sentence of rigorous imprisonment for six months, I am of the view that intention of legislature is that accused in such cases must undergo the minimum sentence and in normal circumstances, provisions of Probation of Offenders Act, 1958, should not be invoked. Hence, the prayer for releasing the accused-revisionist on probation is declined.

However, considering that revisionist is first offender, substantive sentence of rigorous imprisonment for one year is reduced to rigorous imprisonment for six months, while remaining part of sentence is maintained. The case property is also confiscated to State. Hence, revision is dismissed.

(KULDIP SINGH)
JUDGE

20.12.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No