

08.06.2021
Item no.11.
Court No.34.
AB

(Via Video Conference)

**C.R.R. 1032 of 1986
With
I A CRAN 1 of 2019
(Old CRAN 379 of 2019)
I A CRAN 2 of 2019
(Old CRAN 1859 of 2019)**

**Lakhan Mullick & Others
Vs
The State of West Bengal**

Mr. Dipanjan Dutt ...for the Petitioners.

Mr. Sandip Chakraborty...for the State.

The present revisional application has been preferred against the order of conviction and sentence dated 30.04.1986 passed by the learned Additional Sessions Judge, Darjeeling in Criminal Appeal No.18 of 1984 wherein the learned Appellate Court was pleased to affirm the order of conviction and sentence dated 16.07.1986 passed by the learned Sub-Divisional Judicial Magistrate, Siliguri in connection with G.R. Case No.922 of 1975. The learned Trial Court was pleased to hold the accused petitioners guilty for offences under Sections 392/34 of the Indian Penal Code and sentenced each of them to suffer rigorous imprisonment for one year and to pay a fine of Rs.1,000/-each, in default to suffer further rigorous imprisonment for three months.

The revisional application was admitted before this Court by an order dated 28.07.1986 specifically observing “this Rule will be limited to the question of sentence only. Petitioners will not be at liberty to argue on the merits of the case at the hearing of this Rule.”

Mr. Dutt, learned Advocate appearing for the petitioners, presents his case and submits that the petitioners have been implicated in this case on false notions and the learned Trial Court as well as the Appellate Court erroneously arrived at a conclusion of guilt so far the present petitioners are concerned.

On the other hand, Mr. Sandip Chakraborty, learned Advocate appearing for the State, supports the judgment delivered by the learned Magistrate, which was affirmed by the Appellate Court being the Sessions Court.

I have taken into account the issue on which the revisional application was admitted. As the revisional application is restricted on the issue of sentence and the records reflect that the incident is of 1975, i.e. more than 45 years ago, I am of the view that it would be harsh to sieve out the legality/illegality on the quantum of sentence so imposed by the learned Trial Court and affirmed by the Appellate Court.

Under the aforesaid circumstances, I direct that the sentence, which has already been undergone by the present petitioners, be treated as a substantive sentence in respect of

the order of guilt and conviction so imposed in connection with G. R. Case No.922 of 1975 corresponding to Criminal Appeal No.18 of 1984. The Rule so issued by way of order dated 28.07.1986 is, accordingly, discharged.

Accordingly, the revisional application being C.R.R. No.1032 of 1986 is partly allowed and all connected applications are disposed of.

Department is directed to send back the LCR to the Jurisdictional Courts.

Let this order be communicated to the learned Chief Judicial Magistrate, Darjeeling for necessary action.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

