

22.02.2021
SL No 01
Saswata /ab

CRA 498 of 2014
With
IA NO: CRAN/2/2014
(Old CRAN 4491/2014)
Piyarul Islam
-vs-
The State of West Bengal

Mr. Mrityunjoy Chatterjee
Sk. Saiuddin

... for the appellant

Mr. Rana Mukherjee, APP

... for the State

We have requested Mr. Rana Mukherjee, learned Additional Public Prosecutor to appear for the State in this matter. His appointment should be regularized.

On consent of learned advocates for both the parties, this appeal is taken up for final hearing.

The appellant stands convicted and sentenced to undergo rigorous imprisonment for ten years and to pay a fine of Rs. 5000/- (five thousand) with a default sentence of rigorous imprisonment for six months on being convicted for offence found to have been committed under Section 489B of the Indian Penal Code. He also stands sentenced to suffer rigorous imprisonment for five years and to pay a fine of Rs.2000/- (two thousand), in default of which to suffer rigorous imprisonment for two months more under Section 489C. Both the sentences have been directed to run concurrently.

Heard learned advocate for the appellant who attacked the findings in the judgment and appreciation of the evidence

by the learned Judge and ultimately pointed out that the appellant had been handed down the maximum term sentence that could be imposed in terms of Section 489B.

Learned Additional Public Prosecutor Mr. Rana Mukherjee supported the findings of the Trial Court and the conclusion as to the culpability of the accused. He made reference to the evidence considered by the learned Judge and argued that this is not a case where it could be said that the appellant was not consciously involved in the incriminating activity that has led to his conviction and imposition of penalty under Section 489B of the Indian Penal Code.

The material evidence on record shows that the appellant was intercepted while trying to carry out certain transactions in the stationary shop of PW-3 using Fake Indian Currency Notes. PW-1 who is a Sub-Inspector of police and had obtained information and consequently seized the contraband proved recovery and seizure. It was to the tune of 46 numbers of Fake Indian Currency Notes (FICN) purportedly of Rs.1000/- denomination each. PW-2 is the manager of Bharatiya Reserve Bank Note Mudran Pvt. Ltd. at Salboni who opined that the recovered materials were Fake Indian Currency Notes. The evidence of PW-4 who was cited as a witness for the search and seizure corroborates the versions of PW-3 & PW-4 and he also identified the accused and the seized currency notes. Investigation of the case was carried on subsequently by PW-5. The accused was examined on his 313 statement. The accused took the stand of complete denial.

With the quality of evidence on record, particularly the testimonies of PW-1, PW-2, PW-3 and PW-4, we are of the view that the legal evidence on record necessarily inculcates the accused and the conclusion of the Court below to that effect is one that does not call for interference.

On the question of sentence, to our query, we are told that there is no earlier incident involving the appellant, as has been noted in the judgment. We have bestowed our anxious consideration to the swing of the span between the maximum sentence and the minimum mandatory sentence in terms of Section 489B of the Indian Penal Code. We see that the appellant by now has undergone imprisonment for a total period of more than 8 years 11 months. We are satisfied that ends of justice require that the sentence imposed on the accused be modified and reduced to the period already undergone by the accused.

In the result, the appeal is allowed in part modifying the sentence imposed on the accused to be that which he has already undergone. The sentence of fine and the default sentence in that regard will, however, stand.

The appellant shall be released forthwith unless he is wanted in connection with any other case.

The appeal and the connection application are both disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon completion of requisite formalities.

(Thottathil B. Radhakrishnan, CJ.)

(Arijit Banerjee, J.)