

26.04.2022

Sl. No. 50.

Mithun.

Ct.No.42.

IA No: CRAN/4/2020

In

CRR/1621/2006

(Via Video Conference)

Sital Chandra Dey.

Vs.

The State of West Bengal

Mr. Sujoy Chakraborty, Adv.

Ms. Shashwati Bhattacharjee, Adv.

...for the petitioner.

Mr. Arijit Ganguly, Adv.

Mr. Sanjib Kumar Daw, Adv.

...for the State.

In a case under Section 46A(c) of Bengal Excise Act, the petitioner was convicted and sentenced to suffer simple imprisonment for 3 months. The said judgment and order of conviction dated 28th September, 2004 in Criminal Case No.54 of 2000 passed by the then learned Sub-Divisional Judicial Magistrate, Chandannagore, Hooghly was assailed by the petitioner by filing a revision being Criminal Motion No.67 of 2006 before the learned Sessions Judge, Hooghly. The aforesaid Criminal Revision was disposed of by the learned Additional Sessions Judge, Hooghly by an order dated 5th May, 2006. The order of conviction and sentence passed by the learned SDJM,

Chandannagore was upheld by the learned Additional Sessions Judge, Hooghly.

In the instant Criminal Revision, the order passed by the learned Additional Sessions Judge at Hooghly in Criminal Motion No.67 of 2006 is under challenge.

Being a revisional Court, this Court has limited power to consider as to whether the order impugned suffers from any illegality, impropriety or material irregularity, exercising revisional jurisdiction, this Court cannot appreciate the evidence of lower court record appearing against the accused persons.

Bearing the principle in mind when the case is examined it is ascertained that the accused/petitioner is fighting legal battle since 2000 for illegal possession of the 10 ltrs of I.D. liquors in a jarican.

In view of an order dated 22nd December, 2020, the petitioner was directed to deposit a sum of Rs.30,000/- before the learned ACJM, Chandannagore, Hooghly by 3rd January, 2021. The petitioner duly complied with the said order and deposited the said sum on 28th December, 2020. Considering the continuation of a criminal trial for about 22 years, this Court is of the considered opinion that the petitioner has suffered more mental agony and custodial detention is not at all necessary at this stage for the offence committed by him. Since both the Courts below held the accused guilty on the basis of the evidence on record, I cannot reappreciate the evidence. However, this Court has every power to alter the sentence.

Accordingly, the order of sentence passed by the learned SDJM, Chandannagore on 28th September, 2004 in Criminal Case No.54 of 2000 and affirmed by the learned Additional Sessions Judge, Hooghly in Criminal Motion No.67 of 2006 on 5th May, 2006 is altered in the following manner.

The petitioner is sentenced to pay a fine of Rs.30,000/-, in default, to suffer imprisonment for 3 months for offence committed under Section 46A(c) of the Bengal Excise Act.

The learned Additional Chief Judicial Magistrate, Chandannagore is directed to consider that the petitioner has already deposited Rs.30,000/- on 28th December, 2020. The said amount be converted to the fine amount imposed by this Court.

The petitioner is at liberty to act on the server copy of this order.

(Bibek Chaudhuri, J.)