

16.12.2022

Court No.35
Item No. 5

CRR 2105 of 2015

D.Hira

**Rajesh Thakur @ Rajesh Kumar Prasad
Vs.
The State of West Bengal**

Mr. Soumyajit Das Mahapatra.

... for the petitioner

Mr. Pronojit Roy.

... for the defacto complainant

Mr. Pravas Bhattacharya,
Mr. M.F.A. Begg.

... for the State

This is a revision by the petitioner/convict to challenge the impugned judgment dated 8th June, 2015 passed by the Additional Sessions Judge, Re-Designated Court at Paschim Medinipur, in Criminal Appeal No. 31 of 2012.

By dint of the said judgment, the Sessions Judge has affirmed the judgment of the Magistrate, 5th Court at Medinipur in G.R. Case No. 1577 of 2007 under Sections 341/323/427 of the Indian Penal Code.

Therefore, by both the Courts the present petitioner was convicted for the offence as mentioned above and were sentenced to suffer imprisonment for a period of six (6) months.

The petitioner's challenge to the same in this revision is based on a very small spectrum that is the petitioner accepts the judgment of both the Courts. Though he has prayed for an order of this Court to release him on probation of good conduct.

Mr. Soumyajit Das Mahapatra, learned Advocate appearing on behalf of the petitioner has submitted that the petitioner was working as a carpenter under the complainant and they developed between themselves some dispute regarding payment of money. He has pointed

out to the relevant portion of the impugned judgment to submit that during trial and from the judgment of the Magistrate as well as the First Appellate Court, the dispute between the parties regarding transaction of money shall be apparent.

It is further submitted that the fact of the convict/petitioner having executed a fatal blow with the help of a piece of brick upon the injured victim/complainant is proved in this trial and the petitioner does not dispute the same. However, it is submitted that the petitioner being a person labouring hard to earn his livings and possibly only person in the family to earn breads for other members also, may be considered to be released under the provisions of Probation of Offenders Act, 1958.

Mr. Pronojit Roy, learned Advocate on behalf of the opposite party, however, raises objections to such contention and prayer of the petitioner.

Mr. Roy, learned Advocate for the opposite party has pointed out to the relevant portion of the impugned judgment to show the nature and gravity of the offence committed by the petitioner/convict as proved in the trial particularly on the basis of the medical details and submitted that he should be committed to prison as directed by the two Courts below.

Considered the submissions, perused the materials available on record. On careful consideration of the impugned judgment, it appears that there has been certain dispute as regards some monetary affairs between the parties, that may be with regard to the remuneration of the present petitioner, which he was supposed to get from the defacto complainant. The dispute arose concerning the same and the unfortunate event happened. After examination of witnesses and other materials the prosecution has proved the case and the allegations against the present petitioner have been brought home in order to result to his conviction and sentence of six (6) months of imprisonment.

The relevant portion of the said Act speaks as follows:-

“4. Power of court to release certain offenders on probation of good conduct.-(1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour.”

Considering the nature and gravity of the offence, the resultant conviction and the period of sentence and also the post conviction conduct of the present petitioner regarding which there is no adverse report till date, I am of the opinion that the prayer of the petitioner in this revision that he may be released under the provision of Probation of Offenders Act, 1958 should be allowed. One should also not lose sight of the fact, that it is nobody's case that the petitioner has ever been a habitual offender. All these prompt this Court to find it expedient to release him on probation of good conduct for a period of one year from the date of this order. Therefore, notwithstanding anything contained in any other law the petitioner is directed to be released, instead of abiding by the sentence.

It is further directed that the petitioner shall find bond of Rs.10,000/- with two registered sureties of Rs.5,000/- each, in the Court of learned Chief Judicial Magistrate of the concerned district. The petitioner shall appear before the Court whenever called for during the period of probation. In the meantime, during this period the petitioner shall maintain peace and good behaviour.

With the above directions, this revision is allowed.

Accordingly, CRR no. 2105 of 2015 is disposed of.

All pending applications, if any, are consequently disposed of.

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

(Rai Chattopadhyay, J.)