

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

CRA (SB) 142 of 2023

Shoag Sardar
-versus-
The State of West Bengal

Mr. Uday Sankar Chattopadhyay
Mr. Subhayu Das
Ms. Trisha Rakshit
... For the appellant

Mr. Sandip Chakraborty
... For the State

1. Affidavit of service filed in Court today is taken on record.
2. Liberty is given to the learned advocate appearing on behalf of the appellant to amend the prayer portion of the appeal.
3. By this appeal, the order of sentence passed on 25th January, 2023 by the learned Additional Sessions Judge, Fast Track 1st Court, Basirhat, North 24-Parganas, in connection with Sessions Case No.486 of 2022 corresponding to Sessions Trial No.26(01)/21 in connection with Basirhat Police Station Case No.432 of 2022 dated 5th July, 2022, is questioned.
4. Mr. Uday Sankar Chattopadhyay, learned advocate appearing on behalf of the appellant has referred to Section 375(1) of the Code of Criminal Procedure, 1973 (in short, CrPC) with a view to give support to this appeal filed on the ground for considering the extent of sentence within the meaning of Section 375(b) of the CrPC. Mr. Chattopadhyay has further submitted that the appellant entered into this country in search of a job.

5. Per contra, Mr. Sandip Chakraborty, learned advocate, appearing on behalf of the State has contended that the appeal is not maintainable in terms of Section 375(b) of the CrPC as there is no ground to challenge the legality of the sentence.

6. I am not agreeable to Mr. Chakraborty on the issue of maintainability of this appeal which was filed with a prayer for modifying the sentence imposed to the minimum period under Section 14A(b) of the Foreigners Act, 1946 (hereinafter referred to as the “1946 Act”) which can be considered within the meaning of Section 375(b) of the CrPC.

7. From the record, it appears that the convict was produced before the learned Judge on 25th January, 2023, who voluntarily pleaded guilty of committing the offence punishable under Section 14A(b) of the 1946 Act. Learned Judge accepted the plea in terms of the statement recorded under Section 161 of the CrPC and other relevant documents forwarded under Section 173 of the CrPC. Accordingly, the learned Judge convicted the appellant under Section 229 of the CrPC and imposed simple imprisonment for a term of two years and six months and also to pay fine of Rs.20,000/-, in default of payment, further simple imprisonment for a term of six months for the offences under Section 14A(b) of the 1946 Act. The period of detention of the accused during trial was ordered to be set off. He was also directed to be departed after expiry of his period of sentence.

8. From the order impugned, I find that the learned Judge did not mention any reason for not imposing the minimum punishment in

this case and imposed sentence for a period of two years and six months along with fine of Rs.20,000/-.

9. Having regard to all the facts and circumstances in this case, I find no reason to disallow the prayer for reducing sentence of imprisonment for a period of two years and six months to the simple imprisonment for two years and also to pay fine of Rs.10,000/- instead of Rs.20,000/-, in default, to suffer simple imprisonment for two months.

10. After expiry of the period of sentence, all necessary steps should be taken for his repatriation to his own country immediately thereafter.

11. The learned Judge is requested to communicate the modified jail warrant to the correctional home immediately upon receipt of this order.

12. Department is directed to communicate this order to the learned Judge forthwith.

13. With the aforesaid observation, the criminal appeal, being CRA(SB) 142 of 2023, stands disposed of.

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

15. Criminal Section is directed to supply certified copy of this order, if applied for, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)