



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Reserved on : 04th September, 2023

Pronounced on: 21st September, 2023

+ **CRL.A. 191/2023 & CRL.M.A. 3163/2023.**

KHOIRAM RANJIT SINGH @ ROCKY @ GREAT MACHA @
POEREI MEITEI Appellant

Through: Ms. Tara Narula, Advocate,
(DHCLSC) with Ms. Bijaharini
Avula, Advocate for

versus

STATE (NIA) Respondent

Through: Mr. Gautam Narayan, SPP with
Ms. Zeenat Malik, PP, Ms.
Asmita Singh, Mr. Harshit Goel,
Mr. Siddhant Singh, Advs. with
Mr. R.K. Pandey, DSP-CIO.

+ **CRL.A. 452/2023 & CRL.M.A. 15400/2023.**

PUKHRIHONGAM PREM KUMAR MEITI @ PK @ IBOMCHA
..... Appellant

Through: Ms. Astha, Adv. (DHCLSC)
versus

STATE (NIA) Respondent

Through: Mr. Gautam Narayan, SPP with
Ms. Zeenat Malik, PP, Ms.
Asmita Singh, Mr. Harshit Goel,
Mr. Siddhant Singh, Advs. with
Mr. R.K. Pandey, DSP-CIO.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT



ANISH DAYAL, J.

1. These appeals have been preferred by the appellants *herein*, being Khoiram Ranjit Singh @ Rocky @ Great Macha @ Poerei Meitei (*referred to as* “Appellant 1”) and Pukhrihongam Prem Kumar Meiti @ PK @ Ibomcha (*referred to as* “Appellant 2”), under Section 21 of the National Investigation Agency Act, 2008 (“NIA Act”) seeking reduction of fine and/or reduction of the default sentence imposed on the convicted appellants in NIA case No. RC-05/2017/NIA/DLI (*vide* order dated 29th April 2022 by the Ld. ASJ, Patiala House Courts, Delhi). The allegations made against the appellants were that they were active cadres of the Kangleipak Communist Party (“KCP”), a banned terrorist organisation, and were allegedly involved in anti-national and terrorist activities in Manipur and other parts of India. In furtherance of a larger conspiracy, it was alleged that they procured arms and ammunition to carry out terrorist activities in other parts of India including Delhi and NCR.

The FIR and the Investigation

2. The proceedings against the appellants have their origin in the First Information Report (“FIR”) bearing No. 02/2017 lodged by the Special Cell, Delhi Police on 12th January, 2017. In compliance with order No. F. No.11011/15/2017-IS.IV, dated 15th March, 2017, issued by the Ministry of Home Affairs, Government of India, the National Investigation Agency (“NIA”) registered the instant case as RC-05/2017/NIA/DLI on 16th March, 2017. Further investigation revealed that the appellants were over ground workers of the KCP and had committed various crimes in furtherance of their role. Appellant 1 was



involved in raising funds for the activities of the KCP. Two hand grenades were recovered from the abode of Appellant 1 on 17th January, 2017. On 12th January, 2017 disclosure statement of Appellant 2 revealed that on the instructions of Appellant 1, Appellant 2 collected four hand grenades, one 9 mm English pistol, and six 9 mm live cartridges from another co-accused Sanabam Inobi.

The Charges

3. Subsequently, the NIA filed the Final Report/Charge Sheet No. 06/2017 on 10th July, 2017 against three accused persons, including the appellants, *inter alia* under various provisions of the Indian Penal Code, 1860 (“IPC”), the Unlawful Activities (Prevention) Act, 1967 (“UAPA”), and the Explosive Substances Act, 1908 (“ESA”).

4. On 18th August, 2020, charges against Appellant 1 were framed under Section 120B of IPC, Section 17 of UAPA read with 120B of IPC, Section 18B of UAPA read with 120B of IPC, Section 20 of UAPA read with 120B of IPC, Section 38 of UAPA read with 120B of IPC, Section 40 of UAPA read with 120B of IPC, and under Sections 17, 18, 18B, 20/38, 40 and 23 of UAPA and Sections 5 and 6 of ESA. Charges against Appellant 2 were framed under Section 120B of IPC, Section 17 of UAPA read with 120B of IPC, 18B of UAPA read with 120B of IPC, Section 20 of UAPA read with 120B of IPC, Section 38 of UAPA read with 120B of IPC, Section 40 of UAPA read with 120B of IPC, and under Sections 18, 20/38, 23 of UAPA and Sections 5 of ESA, as well as Sections 25 and 7 of the Arms Act, 1959.



5. The appellants pleaded not guilty to the charges framed against them and claimed trial.

Conviction and Sentencing

6. Thereafter, during trial, by way of separate applications under Section 299 of the Code of Criminal Procedure, 1973 (“Cr.P.C.”) on 1st April, 2022, the appellants accepted the charges framed against them and pleaded guilty to the same. The Ld. ASJ noted that the appellants’ voluntary plea of guilt was indicative of remorse, and therefore, was a mitigating factor in their favour.

7. Furthermore, the Ld. ASJ called for the appellants’ socio-economic inquiry report (“SEI Report”). It revealed that Appellant 1’s family consists of his aged mother, three children, and that his wife (a cancer patient herself) is the only earning member of the family and weaves for a living. The annual income of Appellant 1’s family is Rs. 60, 000/-; and they live in a simple structure made of mud.

8. The SEI Report further revealed that Appellant 2’s family consists of four children, and that his wife (who also earns her living as a weaver) is the sole earning member of the family. The annual income of Appellant 2’s family is Rs. 90, 000/-; and Appellant 2’s family also lives in a simple structure made of mud.

9. Taking into consideration the appellants’ extremely poor and harsh financial condition, and after perusing their jail conduct report, which was found to be satisfactory, the Ld. ASJ, *vide* the impugned order dated 29th April, 2022, sentenced the appellants as under:



Appellant 1:

S. No.	Offence	Sentence awarded	Fine (in Rs.)	Sentence in lieu of fine
i	120B IPC	5 years RI	3,000	3 months SI
ii	17 UAPA	7 years RI	5,000	3 months SI
iii	18B UAPA	7 years RI	5,000	3 months SI
iv	20 and 38 UAPA	7 years RI	5,000	3 months SI
v	18 UAPA	7 years RI	5,000	6 months SI
vi	40 UAPA	7 years RI	5,000	3 months SI
vii	23 UAPA	7 years RI	5,000	3 months SI
viii	5 ESA	5 years RI	3,000	3 months SI
ix	6 ESA	5 years RI	3,000	3 months SI
Total			39,000	2 years 6 months SI

Appellant 2:

S. No.	Offence	Sentence awarded	Fine (Rs.)	Sentence in lieu of fine
i	120B IPC	5 years RI	3,000	3 months SI
ii	17 UAPA	7 years RI	5,000	3 months SI
iii	18B UAPA	7 years RI	5,000	3 months SI
iv	20 and 38 UAPA	7 years RI	5,000	3 months SI
v	18 UAPA	7 years RI	5,000	6 months SI
vi	40 UAPA	7 years RI	5,000	3 months SI
vii	23 UAPA	7 years RI	5,000	3 months SI
viii	5 ESA	5 years RI	3,000	3 months SI
ix	25 & 7 AA	5 years RI	3,000	3 months SI
Total			39,000	2 years 6 months SI

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Submissions on behalf of the appellants

10. Learned counsel appearing on behalf of the appellants have submitted that the appellants would have served the sentence of seven years by this time and would have been released. However, they will not be released on account of non-payment of fine of Rs. 39,000/- each, considering their socio-economic condition. The SEI report sought by the Ld. ASJ was adverted to in support of the submissions. In default of payment of fine of Rs. 39,000/- each, the appellants would end up serving 30 months of sentence which was excessive and more than one-third of the substantive sentence of seven years imposed on the appellants.

11. Further, as per the appellants' jail conduct report, their conduct was satisfactory and no punishment till date had been imposed on them. Both the appellants were "*lungar sahayak(s)*" and prepared *rotis* for the inmates. Further, the appellants had pleaded guilty to the charges framed against them and had shown remorse.

12. The appellants have relied upon and referred to the following decisions in support of their case:

Sr. No.	Case Title	Citation
1.	<i>Adamji Umar Dalal v. State of Bombay</i>	1951 SCC 1106
2.	<i>Shantilal v. State of Madhya Pradesh</i>	(2007) 11 SCC 243
3.	<i>Shahejadjkhan Mahebubkhan Pathan v. State of Gujarat</i>	(2013) 1 SCC 570
4.	<i>Mohd. Salauddin v. The State (NCT of Delhi)</i>	2009 OnLine Del 362



13. A plea has been taken in the written submissions filed by Appellant 1 that the fine amount be reduced to approximately Rs. 10,000/- to preclude the appellants from serving the default sentence and, in the alternative, default sentence be reduced to a term which is reasonable and proportionate.

Submissions on behalf of the respondents

14. Mr. Gautam Narayan, learned Special Public Prosecutor (“SPP”) appearing on behalf of the NIA, submitted in response that the appeal is barred by limitation as it is filed beyond a period of 30 days from the date of the impugned order as also the extended period of 90 days (to which extent delay can be condoned by this Court as per Section 21 (5) of the NIA Act). Notwithstanding the same, allegations against the appellants were serious, consisting of anti-national and terrorist activities such as being in possession of explosives, extortion and deposition of terror funds. However, what was essentially stressed was that the principles pertaining to levy of fines and imprisonment in default of payment of the fine have been incorporated under Sections 63 to 67 IPC. While Section 63 IPC mandates that even if a provision does not state the maximum fine, the fine imposed cannot be excessive, Section 65 directs that for offences punishable with both imprisonment and fine, the imprisonment imposed in lieu of fine cannot exceed one-fourth of the maximum term prescribed.

15. It was submitted that various judgments of the Hon’ble Supreme Court have clarified that default imprisonment is not a sentence but in the nature of a penalty levied due to non-payment of fine. The



respondents have relied upon and referred to the following judgments in support of their case:

Sr. No.	Case Title	Citation
1.	<i>Adamji Umar Dalal v. State of Bombay</i>	1951 SCC 1106
2.	<i>Shantilal v. State of Madhya Pradesh</i>	(2007) 11 SCC 243
3.	<i>Shahejadjkhan Mahebubkhan Pathan v. State of Gujarat</i>	(2013) 1 SCC 570
4.	<i>Mohd. Issa v. State</i>	2013 SCC OnLine Del 1377
5.	<i>Sharad Hiru Kolambe v. State of Maharashtra</i>	(2018) 18 SCC 718
6.	<i>Deepak Kumar Ganesh Rai Manto v. State of Goa & Anr.</i>	Order dt. 28.02.2023 in SLP (Crl.) No. 1212/2023
7.	<i>Govt. of NCT of Delhi v. Sonu</i>	Crl.A. No. 1256/2019
8.	<i>State of Madhya Pradesh v. Udham</i>	(2019) 10 SCC 300

ANALYSIS

16. Insofar as the nature and extent of the power of courts to impose fine is concerned, Sections 63 to 70 IPC are relevant. Some provisions pertinent for the purposes of the present analysis are extracted below for reference:

“63. Amount of fine.— Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

65. Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable.— The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of



imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

66. Description of imprisonment for non-payment of fine.—
The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

68. Imprisonment to terminate on payment of fine.—
The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

17. Aside from the statutory provisions resident in the IPC *inter alia* Section 63 to 70, which provide a governing matrix for imposition of fines and sentence in default thereof, the principles enunciated by the Hon'ble Supreme Court assist and guide us in addressing the issues at hand, both objectively and subjectively.

18. *Firstly*, the appellants' plea is limited to reduction of fine amount and/or default sentence imposed by the Ld. ASJ. The fine amount for offences for which sentence has been awarded is either Rs. 3,000/- or Rs. 5,000/-; and three months or six months sentence in default (*the fines imposed for each conviction and the default sentence are elaborated in paragraph 9 above*). Considering that Appellant 1 and Appellant 2 have each been convicted and sentenced for 9 offences respectively, the cumulative impact of the fine has ballooned to Rs. 39,000/- and 30 months of sentence in default. Since the substantive sentences run concurrently, the total effective substantive sentence to be served by the appellants is seven years each. The cumulative impact of the default of non-payment of fine would, therefore, amount to 30 months sentence,



which is 2 ½ years for each of the appellants. Seen from this perspective, the default sentence would add up to more than one-fourth of the substantive sentence. Therefore, there is merit in the appellants' submission that this would fall foul of the spirit and tenor of Section 65 IPC.

19. *Secondly*, the totality of the appellants' circumstances has been considered, assessed, and recorded in the SEI Report which forms part of the material relied upon by the Ld. ASJ. It is evident from the SEI Report that the appellants and their families are not in a financial position to pay the said fines *in toto* and therefore, have no alternative but to suffer default sentence. In this context, principles enunciated in *Adamji (supra)* are instructive, in that the amount of fine should not be harsh or excessive and it is the duty of the Court to keep in view the pecuniary circumstances of the accused person. The relevant paragraph from *Adamji (supra)* is extracted below:

"8. [...] In imposing a fine it is necessary to have as much regard to the pecuniary circumstances of the accused persons as to the character and magnitude of the offence, and where a substantial term of imprisonment is inflicted, an excessive fine should not accompany it except in exceptional cases. [...]"

20. *Thirdly*, it is categorically enunciated by the Hon'ble Supreme Court in *Shantilal (supra)* that a term of imprisonment in default of payment of fine is not a sentence but a penalty incurred for non-payment. Therefore, there is no reason why the appellants are being penalised for their poor financial condition since that has no relation to the sentence undergone for the offences they were convicted for. This



was reiterated by the Hon'ble Supreme Court in ***Shahejadhkhan*** (*supra*) in which prejudice caused to the convict's family members who are innocent was taken into account in the following paragraph:

“15. [...]However, considering the circumstances placed before us on behalf of the appellant-accused viz. they are very poor and have to maintain their family, it was their first offence and if they fail to pay the amount of fine as per the order of the Additional Sessions Judge, they have to remain in jail for a period of 3 years in addition to the period of substantive sentence because of their inability to pay the fine, we are of the view that serious prejudice will be caused not only to them but also to their family members who are innocent. We are, therefore, of the view that ends of justice would be met if we order that in default of payment of fine of Rs 1.5 lakhs, the appellants shall undergo RI for 6 months instead of 3 years as ordered by the Additional Sessions Judge and confirmed by the High Court.”

(emphasis supplied)

21. *Fourthly*, the appellants' jail conduct is without a blemish, and must be taken into account in the present case. This Court in ***Mohd. Salauddin*** (*supra*) took the appellant's financial condition as well as jail conduct into consideration while reducing the fine imposed therein, and held as follows:

5. In the facts and circumstances of this case, wherein the appellant belongs to an extremely poor family, his mother is seriously sick and his wife and six minor children are at the verge of starvation. According to the nominal roll of the appellant, the unexpired portion of sentence of the appellant is five months and twenty one (IFP) days. The appellant being not in a position to pay the fine, it would result in his imprisonment for a further period of two months. Taking into consideration the antecedents of the



appellant- the fact that the conduct of the appellant has been satisfactory throughout his jail term; that no other case is pending against him; and the acute financial hardship being faced by the appellant and his family, thus to meet the ends of justice, the order on sentence passed by the learned Trial Court in Case No. 226/06, FIR No. 4662/02, under Sections 498-A/306/509/34, IPC, P.S. Uttam Nagar, Delhi, in so far as it pertains to payment of fine is concerned is reduced and the appellant is directed to pay a consolidated fine of Rs. 500/-.

(emphasis supplied)

22. *Fifthly*, the appellants' admission of guilt is a clear indication of possibility of reform and therefore invites us to employ a degree of proportionality. The appellants' plea of guilt has obviated a full-fledged trial at State expense and costs, and has resulted in the appellants almost serving the full jail sentence of seven years till date.

23. In these circumstances, the following view taken in **Sonu** (*supra*) resonates with this Court in arriving at a decision:

“19. The fact that the respondent-accused had voluntarily pleaded guilty merits consideration especially in view of our overburdened judicial system. As ‘judicial capital’ in terms of manpower and resources is extremely limited, the accused who enters the plea of guilt cannot stand on the same pedestal as an accused who is convicted and sentenced after a full-fledged trial. The Law Commission in its 142nd Report titled —Concessional Treatment For Offenders Who On Their Own Initiative Choose To Plead Guilty Without Any Bargaining” has observed as under:-

“It is not just and fair that an accused who feels contrite and wants to make amends or an accused who is honest and candid enough to plead guilty in the hope that the community will enable him to pay the penalty for the crime with a degree of



compassion and consideration should be treated on par with an accused who claims to be tried at considerable time-cost and money-cost to the community. (emphasis supplied)

20. *This Court is also of the opinion that the fact that the respondent-accused had voluntarily pleaded guilty, without any threat, pressure or coercion indicates that he is capable of reformation. One of the main objectives of sentencing is the possibility of the convict being reformed and the society benefiting at large.*”

24. In view of these facts and circumstances and the analysis provided above, it is the opinion of this Court that the fine imposed for each of the nine offences for which the appellants have been convicted be Rs. 1,000/- per offence (amounting to a total of Rs. 9,000/- for each appellant) and in default of payment thereof, SI for one month for each offence (amounting to a total of nine months in default thereof for each appellant). It is directed accordingly.

25. Judgment/Order be uploaded on the website of this Court.

**(ANISH DAYAL)
JUDGE**

**(SIDDHARTH MRIDUL)
JUDGE**

SEPTEMBER 21, 2023/RK