

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2151 OF 2017
[@ SPECIAL LEAVE PETITION (CRL.) NO. 7851 OF 2017]

PRADEEP BACHHAR

Appellant(s)

VERSUS

THE STATE OF CHHATTISGARH

Respondent(s)

J U D G M E N T

KURIAN, J.

1. Leave granted.

2. The appellant is convicted under Section 20(b) (ii)(C) of The Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, "the NDPS Act") and sentenced to undergo rigorous imprisonment for 15 years and a fine of Rs. 1,50,000/- with a default sentence of three years.

3. The High Court reduced the sentence from 15 years to 12 years. The fine of Rs. 1,50,000/- was retained, but the default sentence was reduced to two years.

4. When the matter came up before this Court, on 09.10.2017, notice was issued on the quantum of sentence.

5. A similar situation came up for consideration before this Court in Shahejadjkhan Mahebubkhan Pathan Vs. State of Gujarat, reported in (2013) 1 SCC 570, whereby having regard to the financial and other social conditions of the convicted person, this Court reduced the substantial sentence to 10 years and the default sentence to six months. The relevant considerations are available at paragraphs 15 and 16 of the Judgment, which read as follows :-

"15. It is clear that clause (b) of sub-section 1 of Section 30 of the Code authorises the court to award imprisonment in default of fine up to one-fourth of the term of imprisonment which the court is competent to inflict as punishment for the offence. 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.

16. For the reasons stated above, both the appeals are partly allowed. The conviction recorded is confirmed and sentence imposed upon the appellants to undergo RI for 15 years is modified to 10 years. The order of payment of fine of Rs. 1.5 lakhs each is also upheld but the order that in default of payment of fine, the appellants shall undergo RI for 3 years is reduced to RI for 6 months. Since the appellants have already served nearly 12 years in jail, we are of the view that as per the modified period of sentence in respect of default in payment of fine, there is no need for them to continue in prison. The appellants shall be set at liberty forthwith unless they are required in any other offence. It is further made clear that for any reasons, if the appellants have not completed the modified period of sentence, they will be released after the period indicated hereinabove is over."

6. Having heard the learned senior counsel appearing for the appellant and the learned counsel appearing for the State, on facts, we do not find any reason to take a different view. Accordingly, the appeal is

allowed. The substantial sentence of the appellant is reduced to 10 years and the sentence in default on payment of fine is reduced to six months.

.....J.
[KURIAN JOSEPH]

.....J.
[AMITAVA ROY]

New Delhi;
December 11, 2017.

ITEM NO.45

COURT NO.5

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s).7851 of 2017

PRADEEP BACHHAR

Appellant(s)

VERSUS

THE STATE OF CHHATTISGARH

Respondent(s)

(FOR ADMISSION and I.R. and IA No.98898/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.98900/2017-EXEMPTION FROM FILING O.T. and IA No.122751/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA No.122752/2017-EXEMPTION FROM FILING O.T.)

Date : 11-12-2017 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MR. JUSTICE AMITAVA ROY

For Appellant(s) Mr. A. T. M. Rangaramanujam, Sr. Adv.
Mr. Naresh Kumar, AOR

For Respondent(s) Mr. Atul Jha, Adv.
Mr. Sandeep Jha, Adv.
Mr. Dharmendra Kumar Sinha, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed non-reportable Judgment.

Pending Interlocutory Applications, if any, stand disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(RENU DIWAN)
ASSISTANT REGISTRAR

(Signed non-reportable Judgment is placed on the file)