

Supreme Court of India

Rajeev Chaudhary vs State (N.C.T.) Of Delhi on 4 May, 2001

Author: Shah

Bench: M.B. Shah, S.N. Variava

CASE NO. :

Appeal (crl.) 606 of 2001

PETITIONER:

RAJEEV CHAUDHARY

Vs.

RESPONDENT:

STATE (N.C.T.) OF DELHI

DATE OF JUDGMENT: 04/05/2001

BENCH:

M.B. Shah & S.N. Variava

JUDGMENT:

J U D G M E N T Shah, J.

Leave granted.

L...I...T.....T.....T.....T.....T.....T.....T..J Short question involved in this appeal is with regard to the interpretation and construction of the expression offence punishable with imprisonment for a term of not less than ten years occurring in proviso (a) to Section 167(2) of the Criminal Procedure Code in context of the expression imprisonment which may extend to ten years occurring in Section 386 of the IPC.

Appellant was arrested in connection with an offence punishable under Sections 386, 506 and 120-B of the I.P.C. He was produced before the Metropolitan Magistrate, Delhi on 31.10.1998 and was released on bail by order dated 2.1.1999 by the Metropolitan Magistrate on the ground that charge-sheet was not submitted within 60 days as provided under Section 167(2) of the Criminal Procedure Code, 1973. That order was challenged before the Sessions Judge, New Delhi by filing Criminal Revision No.22 of 1999. By judgment and order dated 18.8.1999, the Additional Sessions Judge, New Delhi allowed the said revision application. The learned Additional Sessions Judge held that for an offence under Section 386 IPC, period of sentence could be up to 10 years RI. Hence, clause (i) of the proviso (a) to Section 167 (2) would be applicable. He, therefore, set aside the order passed by the Metropolitan Magistrate releasing the accused on bail. That order was challenged before the High Court by the accused. The High Court referred to its earlier decisions and held that



punishment provided is imprisonment of either description for a term which may extend to 10 years and also fine. That means, imprisonment can be for a clear period of 10 years or less. Hence, it could not be said that minimum sentence would be 10 years or more. Further, in context also if we consider clause (i) of proviso (a) to Section 167(2), it would be applicable in case where investigation relates to an offence punishable (1) with death; (2) imprisonment for life; and (3) imprisonment for a term of not less than ten years. It would not cover the offence for which punishment could be imprisonment for less than 10 years. Under Section 386 of the IPC, imprisonment can vary from minimum to maximum of 10 years and it cannot be said that imprisonment prescribed is not less than 10 years.

In the result, the appeal is dismissed.