

IN THE COURT OF ADDL. DISTRICT & SESSION JUDGE-III, AIZAWL

Crl. Rev. No. 9/2014 A/o Crl. Tr. Ex. No. 1522/2013 u/s 13(1) ADC Act

Lalthantluanga @ Laltlanthanga : Petitioner

Versus

State of Mizoram : Respondent

Date of Order : 14.03.2014

PRESENT

Smt. Helen Dawngliani, AD& SJ-III

For the Accused Petitioner : Mr. F. Lalzuiliana, Advocate

For the State : Mrs. Rose Mary, Addl. PP

ORDER

This Revision Petition has been preferred from Jail against the Order dt.28.2.2014 passed by the Id. Chief Judicial Magistrate, Aizawl wherein the convict petitioner has been sentenced to undergo Simple Imprisonment for a period of 6 months and 9 days on his conviction u/s 13(1) ADC Act 1950.

Case Record is received from the Id. Trial Court.

Ld. Counsels are heard.

Mr. F. Lalzuiliana, Id. Counsel for the Convict Petitioner under the Legal Aid scheme submitted that though there are a number of Legal infirmities in the procedure adopted by the Id. Trial Court, as the Revision Petitioner is only aggrieved with the sentence passed by the Id. Trial Judge he will limit his argument only towards the sentence. The Id. Counsel submitted that the quantity of contraband drugs i.e. Parvon Spas which was allegedly seized from the Petitioner is only 13 capsules. The Id. Counsels submitted that the Petitioner has no other criminal antecedents and that the punishment does not commensurate with the seizure allegedly made from the Petitioner. The Id. Counsel submitted that the accused has suffered detension for a period a little more than 2 months. The Id. Counsel submitted that considering the character of the Petitioner, his further detension in custody will not serve any purpose towards reforming him and therefore prays that the sentence may be reduced to the period of detension already undergone by the Petitioner.

On the other hand, Mrs. Rose Mary, the Id. Addl. PP objected the prayer by submitting that though the Petitioner admitted his guilt before the Id. Trial Court, the Id. Court below had already shown leniency to the Petitioner by awarding him the sentence as it passed. The Id. Counsel argued that there are no reasonable grounds to reduce the sentence.

Heard the Id. Counsels and perused the record. It is noticed that the Id. Trial Court while deciding to convict the Petitioner on his own plea of guilt did not give an opportunity to the Petitioner to make his submissions regarding the sentence. In the case at hand, it is noticed that the Convict Petitioner was not defended by any Counsel and as such it becomes all the more necessary for the Id. Trial Court to give a personal hearing upon the Petitioner on his conviction. It is only after hearing the Petitioner that the Id. Trial Court could have better appreciation of the case so as to impose an appropriate sentence/punishment against the Petitioner. The failure to do so cannot but be regarded as flagrant violation of the right of an accused.

Upon perusal of the record, it is found that the Convict Petitioner has already undergone detention for a little more than 2 months. Therefore, there is no reasonable ground to remand the matter back to the Id. Trial Court.

For the aforesaid reason, I find sufficient force in the submission made by the Id. Counsel for the Petitioner and that the failure on the part of the Id. Trial Court to hear the accused on the question of sentence is clearly a procedural irregularity for which this Court can exercise the power of Revision.

Accordingly, the sentence is modified by reducing the same to the period of detention already undergone by the Convict Petitioner Laltlanthanga.

Convict Petitioner Laltlanthanga shall be set at liberty forthwith, if not required in any other case.

With the above Order, the Revision stands disposed off.

Send back the Case Record to the Id. Chief Judicial Magistrate, Aizawl.

Sd/- HELEN DAWNGLIANI
Addl. Dist & Sessions Judge-III,
Aizawl Judicial District, Aizawl.

Memo No. AD & SJ/2014 : Dated Aizawl, the 14th March, 2014
Copy to :

1. Convict/Petitioner Laltlanthanga.
2. Special Superintendent, Central Jail, Aizawl.
3. Chief Judicial Magistrate, Aizawl District, Aizawl.
4. DSP (Prosecution), District Court, Aizawl.
5. Registration Section.
6. Guard File.
7. Case Record.

P E S H K A R