

135 (02 cases) CRR-2475-2024 (O&M)
CRR-2476-2024 (O&M)

NARESH YADAV V/S STATE OF PUNJAB AND ANOTHER

Present : Mr. Vikram Chaudhri, Senior Advocate,
with Ms. Hargun Sandhu, Advocate for the petitioner
(in both cases).

Learned Senior counsel contends, *inter alia*, that both the appeals against acquittal preferred by the *de facto* complainant as well as the State were sought to be withdrawn, but despite that, learned Appellate Court proceeded with the matter; set aside the acquittal; and ultimately convicted the petitioner without even realizing that appellant(s) were not willing to pursue the appeal(s).

(2) In view of the above, *prima facie*, the approach of learned Appellate Court seems to be not only unusual; rather untenable in law.

(3) Notice of motion.

(4) At this stage, Mr. Deepender Singh, learned Addl. A.G., Punjab, accepts notice on behalf of respondent No.1-State; seeks time to have instructions and/or file written response in the matter(s).

(5) Service of respondent No.2 in due course.

(6) Main petition(s) are set down for hearing on **18.12.2024**.

(7) Registry shall complete the paper-book after getting the records from both the Courts, through electronic mode, for perusal of this Court.

CRM-48340-2024 IN CRR-2475-2024
CRM-48341-2024 IN CRR-2476-2024

(8) Application(s) under Section 438 read with Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 for suspension of sentence awarded to the applicant-petitioner (Naresh Yadav) and stay of conviction during the pendency of present petition(s).

(9) It transpires that applicant/petitioner was convicted and sentenced by learned Appellate Court in the following manner:-

Conviction under Section	Sentence
120-B IPC	RI for 06 months and to pay a fine of Rs.1,000/- with default clause
295-A read with Section 120-B IPC	RI for 02 years and to pay a fine of Rs.5,000/- with default clause
153-A read with Section 120-B IPC	RI for 02 years and to pay a fine of Rs.5,000/- with default clause.

All the sentences were ordered to run concurrently.

(10) Since main petition(s) are set down for hearing on **18.12.2024**; therefore, learned Senior counsel for the petitioner(s), on instructions, does not press the application for staying the conviction, “at this stage”.

Ordered accordingly.

(11) In view of the above, the present application is disposed off and remaining sentence of imprisonment imposed upon the applicant/petitioner(s) in the present case(s) is hereby suspended during the pendency of the present petition(s). He is ordered to be released on bail on his furnishing adequate bail bonds/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

(12) Needless to say that this order be not construed as an expression of opinion on the merits of controversy in any manner.

(13) It is made clear that in case of any recurrence on the part of the petitioner(s), the State of Punjab would be at liberty to move an application for recalling of this order.

Photocopy of this order be placed on the connected file(s).

04.12.2024
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(MAHABIR SINGH SINDHU)
JUDGE