(2011) 09 JH CK 0046

Jharkhand High Court

Case No: Criminal Revision No. 472 of 2011

Khudi Ram Mahto	APPELLANT
Vs	
The State of Jharkhand	RESPONDENT

Date of Decision: Sept. 22, 2011

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 361
- Penal Code, 1860 (IPC) - Section 279, 337
- Probation of Offenders Act, 1958 - Section 4

Citation: (2011) 09 JH CK 0046

Hon'ble Judges: Prashant Kumar, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Prashant Kumar, J.
Learned Counsel for Petitioner does not want to press this Revision so far it relates to judgment of conviction passed by both the Courts below. He confines this Revision application only to the order of sentence.

2. It is submitted by Sri Mahesh Tiwari, learned Counsel for Petitioner that Petitioner has been convicted under Sections 279 and 337 of the Indian Penal Code. It is submitted that maximum punishment prescribed for both the offences are six months. It is submitted that learned S.D.J.M. while denying the benefit of u/s 4 of the Probation of Offenders Act has not given any special reason. It is further submitted that learned Appellate Court had also not given any reason for denying such benefit. Accordingly, it is submitted that order of sentence is liable to be setaside and Petitioner is entitled to be released on execution of bond as per provisions contained u/s 4 of the Probation of Offenders Act.

3. Having heard the submissions, I have gone through the record of the case. From perusal of judgment of S.D.J.M. as well as of Appellate Court I find that both courts had

not given any special reason for denying the benefit of Probation of Offenders Act to the Petitioner. As per Section 361 of the Code of Criminal Procedure, it is incumbent upon the courts below to give special reason, if they do not want to give benefit of Probation of Offenders Act to the Petitioner. Thus I find material illegality in the order of sentence.

4. In view of the discussions made above, this revision is partly allowed and order of sentence passed by both the courts below are hereby set aside. Learned Trial Court is directed to release Petitioner on bail on his executing bail bond of Rs. 20,000/-(Twenty thousand) with two sureties of like amount each to the satisfaction of Sub Divisional Judicial Magistrate at Khunti in connection with G.R. No. 492 of 2005 for maintaining peace and good behaviour for three years.

5. This revision, so far it relates to conviction of Petitioner under Sections 279 and 337 of the Indian Penal Code, is hereby dismissed as not pressed.

6. Let this order be communicated to the court concerned through FAX at the cost deposited by Petitioner.