

2023 LiveLaw (SC) 643

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

M.M. SUNDRESH; J., J.B. PARDIWALA; J.

CRIMINAL APPEAL NO. 1124 OF 2023; August 10, 2023

PALANISAMY *versus* THE STATE REPRESENTED BY THE INSPECTOR OF POLICE

Indian Penal Code, 1860; Section 489C - Accused-appellant found to be in possession of 43 counterfeit notes of denomination of Rs.10. He was a vegetable vendor - Sentence of 5 years imprisonment modified to the one already undergone while retaining the conviction.

For Appellant(s) Mr. A Velan, AOR Ms. Navpreet Kaur, Adv. Mr. Mritunjay Pathak, Adv. Mr. Aditya Raj Singh, Adv.

For Respondent(s) Mr. V. Krishnamurthy, Sr. Adv., A.A.G. Dr. Joseph Aristotle S., AOR Ms. Shubhi Bhardwaj, Adv. Ms. Vaidehi Rastogi, Adv. Ms. Richa Vishwakarma, Adv.

ORDER

The present appeal has been preferred only by accused no.1. Out of three accused persons, two accused have been charged under Section 489C of the Indian Penal Code (for short "IPC") as the third one was absconding. The case of the prosecution against the present appellant is that he was found in possession of counterfeit notes upon seizure made in pursuance of a secret information. The Trial Court convicted the appellant under Section 489C read with Section 120B of the IPC.

Presently, he was sentenced to undergo rigorous imprisonment of seven years for the offence under Section 489C IPC and rigorous imprisonment of six months for the offence under Section 120B IPC along with fine.

On appeal the High Court modified the sentence to five years of imprisonment as against seven years for offence punishable under Section 489C IPC while acquitting the appellant for the offence under Section 489B IPC. Aggrieved, the present appeal is filed by the appellant.

Though arguments have been made on merit, we find no reason to go into the same. The learned counsel for the appellant has submitted that as of now the appellant has suffered incarceration of about 451 days. He is an illiterate person, eking his livelihood as a vegetable vendor. There is no previous conviction rendered against him and no case is pending. Thus, taking note of the aforesaid facts the sentence imposed may be reduced.

We find force in the submission made by learned counsel for the appellant. The sentence undergone by the appellant is not in dispute. The charge against him is only under Section 489C of the IPC. He was found to be in possession of 43 counterfeit notes of denomination of Rs.10. He was a vegetable vendor. The main accused is A3.

Considering the aforesaid aspects, we are inclined to modify the sentence to the one already undergone while retaining the conviction. Ordered accordingly.

The appeal is allowed in part by modifying the sentence of 5 years imposed by the High Court to that of the period already undergone.

The appellant shall be released forthwith, if not required in any other case.