

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1402 OF 2019
(@ out of SLP (Cr1) No. 496/2019)

K S MUHAMMED

Petitioner(s)

VERSUS

THE ASST. COLLECTOR OF CENTRAL EXCISE & ANR.

Respondent(s)

O R D E R

Leave granted.

The appellant was tried for offence punishable under Section 9(1)(ii) of the Central Excise and Salt Act, 1944 ("The Act", for short). Upon being convicted he was sentenced by the Addl. CJM (Economic Offences), Ernakulam in CC No.183 of 1990 to suffer imprisonment for six months and to pay fine of Rs.20,000/-

The order of conviction and sentence recorded by the Chief Judicial Magistrate was sustained in appeal by the First Appellate Court. In a revision arising therefrom, the High Court reduced the substantive sentence to two months but raised the amount to Rupees one lakh.

We have been apprised that the amount so ordered by the High Court has been paid by the appellant on 25.01.2019.

Notice was issued subject to the appellant's depositing a sum of Rs.2.5 lakhs in the Registry of this Court, which amount stands deposited.

We have heard the learned counsel for the parties.

The conviction in the present matter was recorded under Section 9(1)(ii) of the Act.

Under Section (9)(1)(i) the sentence can extend to seven years and with fine, whereas in terms of Section 9(1)(ii), the imprisonment can extent to three years or with fine.

Thus there is no statutory mandatory minimum sentence of imprisonment; if an offence is committed under Section 9(1)(ii) of the Act.

Having considered the entirety of the matter, in our view, ends of justice would be met, if;

(a) the sentence imposed upon the appellant of two months with fine of Rs.1 lakh is substituted by sentence of fine for Rs.3.5 lakhs. The amount of Rs. One lakh as ordered by the High Court has already been paid. The amount of Rs.2.5 lakhs so deposited in the Registry shall now be appropriated towards fine and shall be made over to the Department. The respondents shall give the details of the account to which the Registry shall remit the sum of Rs.2.5 lakhs (presently lying in deposit) within next seven days.

The appeal is allowed to the aforesaid extent.

.....J.
(UDAY UMESH LALIT)

.....J.
(VINEET SARAN)

New Delhi
September 16, 2019.

ITEM NO.70

COURT NO.7

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 496/2019

(Arising out of impugned final judgment and order dated 29-10-2018 in CRLRP No. 304/2002 passed by the High Court Of Kerala At Ernakulam)

K S MUHAMMED

Petitioner(s)

VERSUS

THE ASST. COLLECTOR OF CENTRAL EXCISE & ANR.

Respondent(s)

(IA No. 48547/2019 - RECALLING THE COURTS ORDER)

Date : 16-09-2019 These matters were called on for hearing today.
CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Mr. Deepak Prakash, AOR
Mr. Nachiketa Vajpayee, Adv.
Mr. Divyangana Mallik, Adv
Ms. Ekta Sharma, Adv.

For Respondent(s) Mr. K. Radhakrishnan, Sr. Adv.
Mr. Kumar Parimal, Adv.
Ms. Rashmi Malhotra, Adv.
Mr. B. Krishna Prasad, AOR
Mr. Nishe Rajen Shonker, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending applications, if any, shall also stand disposed
of.

(INDU MARWAH)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER

(Signed order is placed on the file)