

PETITIONER:
HARBANS SINGH

Vs.

RESPONDENT:
STATE OF PUNJAB

DATE OF JUDGMENT 25/07/1984

BENCH:
DESAI, D.A.
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DESAI, D.A.
VARADARAJAN, A. (J)

CITATION:
1984 AIR 1594 1985 SCR (1) 214
1984 SCC (4) 1 1984 SCALE (2) 78

ACT:

The Prevention of Corruption Act, 1947. 9 Section 5(2).
Court to record in writing 'special reasons' when
awarding less than the minimum sentence-High Court reducing
sentence imposed by trial court to sentence already
undergone-Whether valid and legal.

HEADNOTE:

Section 5 (2) of the Prevention of Corruption Act 1947
prescribes a minimum sentence and discretion is conferred on
the Court to give less than the minimum for any 'special
reasons' to be recorded in writing. [109B]

What constitute 'special reasons' for the purpose of
Section 5 (2) was laid down in Meet Singh v. State of
Punjab, [1980] 2 S.C.R. 1152. [109B]

In the instant case, the High Court for reasons utterly
untenable interfered with the sentence imposed by the trial
court and reduced it to the sentence already undergone. It
erred in showing a misplaced sympathy unsustainable in law.
[214H; 215A]

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JUDGMENT:

CRIMINAL APPELLATE JURISDICTION: Special Leave Petition
(Criminal) No. 1481 of 1984.

From the Judgment and Order dated the 23rd January,
1984 of the Punjab and Haryana High Court in Crl. Appeal No.
45 of 1983.

Harbans Lal and Balmokand Goyal for the Petitioner.

The Order of the Court was delivered by

DESAI, J. We are not inclined to grant special leave,
but we make this short speaking order in order to keep the
record straight that the dismissal of the special leave
petition does not tantamount to affirmance of the order of
the learned Judge of the High Court who for reasons utterly
untenable interfered with the

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sentence imposed by the trial court and reduced it to
sentence already undergone which in the facts and
circumstances of the case was wholly impermissible.

In Meet Singh v. State of Punjab, (1) this Court pointed out that Sec. 5(2) of the Prevention of Corruption Act prescribes a minimum sentence and discretion is conferred on the court to give less than the minimum for any special reasons to be recorded in writing. This Court examined what constitute special reasons for the purpose of Sec. 5(2) and pointed out that the reasons which weighed with the learned Judge in reducing the sentence to the sentence undergone could not be special reasons. Therefore, in our view, the learned Judge was entirely in error in showing a misplaced sympathy unsustainable in law. With these observations we reject the special leave petition.

N.V.K.

Petition dismissed.

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