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Crl.A.No. 1303-1306 OF 1998  
ITEM No.113

Court No.11

SECTION IIA

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

Criminal Appeal Nos.1303-1306 of 1998.

SHIV PRAKASH SETH & ORS.Appellant (s)

VERSUS

STATE OF MAHARASHTRA Respondent (s)

[With office report]

WITH  
CRL.A.NO.1307/1998. [With office report]

Date : 06/04/2004 These petitions were called on for hearing today.

CORAM :

HON'BLE MR.JUSTICE B.N. AGRAWAL  
HON'BLE DR.JUSTICE AR. LAKSHMANAN

For the appellant Mr.Jayant Bhushan, Sr.Adv.  
M/s CSN.Mohan Rao, Manish K.Bishnoi, Advs.

For the respondent M/s.Mukesh K.Giri,  
Manish K.Saran, RK Adsure, Advs.

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

Heard the learned counsel for the parties for some time.  
The appeals are allowed in terms of the signed order.

[Naresh Kumar]  
AR-cum-PS

[ VP Tyagi ]  
Court Master

[Signed order is placed on the file.]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.1303-1306 OF 1998

SHIV PRAKASH SETH & ORS.

...  
APPELLANT (S)

VERSUS

STATE OF MAHARASHTRA

...  
RESPONDENT (S)

WITH  
CRL.A.NO.1307/1998

O R D E R

Heard the parties.

The appellants in these appeals were tried and convicted by the trial court under Section 14(2) of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act') and sentenced to undergo simple imprisonment till the rising of the court and to pay fine of Rs.250/-; in default, rigorous imprisonment for a period of one month. Though under Section 14 (1A) of the Act the minimum sentence that could be awarded was three months but for adequate reasons to be recorded the court in exercise of powers conferred under the proviso could award lesser sentence of imprisonment or fine only in lieu of imprisonment. Acting under the said proviso the trial court passed the aforesaid order. Thereafter the matter was taken on behalf of State of Maharashtra in appeal to the High Court of Bombay which allowed the same in part, sentenced the appellants to undergo simple imprisonment for a period of three months and to pay fine of Rs.2,000/- each. Thereafter on prayer being made on behalf of the appellants leave was granted by the High Court to prefer appeal before this Court under Article 134 of the Constitution of India. Hence these appeals.

Learned senior counsel appearing on behalf of the appellants in support of the appeals placed before us three different orders passed by the High Court of Bombay, (i) passed on 31st October, 1995 in Crl.A.No.831/1984 and analogous cases, (ii) passed on 23rd September, 1996 in Crl.A.No.167/1985 and (iii) passed on 12th August, 1997 in Crl.A.No.204/1985. From the aforesaid orders it would appear that between the same parties relating to different period the trial court passed similar orders and the same have been upheld by High Court as stated above, but while considering the other appeals which have been disposed of by the impugned orders the High Court enhanced the sentence of imprisonment to three months and fine of Rs.2000/-. We do not find any point of distinction in the other three sets of appeals and the present one. Therefore, the High Court was not justified in interfering with the order of the Magistrate. The Magistrate in exercise of powers under proviso to Section 14(1A) passed the order and there was no infirmity therein. The High Court committed an error in interfering with the same. Accordingly the appeals are allowed. The impugned order passed by the High Court is set aside and that of the trial court is restored.

.....J.  
( B.N. AGRAWAL )

.....J.  
( Dr.AR. LAKSHMANAN )  
New Delhi,  
April 06, 2004.