

[NON-REPORTABLE]

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

**Criminal Appeal No. 1463 of 2023
(Arising out of SLP(CrI) No. 2958 of 2023)**

Soori @ T.V. Suresh

...Appellant(s)

Versus

The State of Karnataka

...Respondent(s)

J U D G M E N T

Rajesh Bindal, J.

1. The appellant having been convicted under Section 80 of the Karnataka Police Act, 1963 (for short, 'the 1963 Act') has filed the present appeal. Notice in the appeal was issued on 27.02.2023 limited to the extent of consideration as to whether the appellant can be granted benefit of probation.

2. The brief facts of the case are that FIR dated 16.8.2007 was registered against 24 accused persons including the appellant under sections 79 and 80 of the 1963 Act as they were found to be indulging in gambling. The charge sheet was filed and the Trial Court vide order dated 21.8.2007 convicted them under Section 79 & 80 of the 1963 Act and sentenced them to undergo imprisonment for a period of one year each under both the provisions along with a fine of ₹ 600/- after the accused had pleaded guilty. At that stage, the accused filed affidavits

before the Trial Court undertaking that they will not commit such offence in future and taking note of that, the Trial Court sentenced the accused to imprisonment till the rising of the Court.

3. Aggrieved by the said order, the State preferred appeal against accused no. 1 to 5. The learned Additional Sessions Judge, Mysore, vide order dated 3.05.2010, allowed the appeal against the accused no.1, the appellant, and sentenced him to undergo imprisonment for a period of one month and imposed a fine of ₹ 200/- under Section 80 the 1963 Act. He, however, was acquitted for offence under Section 79 of the 1963 Act. No order was passed against other accused as they could not be served. The order of the first Appellate Court was challenged before the High Court by filing Criminal Revision Petition No.900 of 2013 and the same was dismissed vide order dated 21.07.2022.

4. The argument raised by the learned counsel for the Appellant is that the appellant is not a habitual offender. He has not indulged in any such activity after the involvement in the case in hand. There are no other cases pending against him. He may be given the benefit of probation.

5. On the other hand, learned counsel for the Respondent State submitted that the appellant was involved in a serious offence of gambling at public place and was involved in cases pertaining to

Section 107 CrPC. Subsequently, he does not deserve the benefit of probation.

6. Heard learned counsels for the parties.

7. The incident pertains to the year 2007, when the appellant was about 31 years of age and has been sentenced to undergo imprisonment for a period of one month. As per the information furnished by the learned counsel for the State, the appellant has never indulged in any case of gambling, though there were some cases under Section 107 CrPC. In our opinion, the appellant deserves to be granted the benefit of probation.

8. The appeal is accordingly disposed of. The appellant is directed to be released on probation under Section 360 Cr.P.C. on entering into bond and two sureties each to ensure that he will maintain peace and good behaviour for the duration of his sentence, failing which he can be called upon to serve the sentence.

_____, J.
(Abhay S. Oka)

_____, J.
(Rajesh Bindal)

New Delhi
May 15, 2023

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