HARBANS SINGH

v.

B STATE OF PUNJAB

July 25, 1984

[D.A. DESAI AND A. VARADARAJAN, JJ.]

C *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.

Section 5 (2) of the Prevention of Corruption Act 1947 prescribes a
D 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 inter-
E fered 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]

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

F 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.

G 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 tentamount to affirmance of the order of the learned Judge of the
H High Court who for reasons utterly untenable interfered with teh

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. A

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. B C D

N.V.K. *Petition dismissed.*

(1) [1980] 2 S.C.R. 1152