
(2014) 10 JH CK 0043
In the Jharkhand High Court
Case No : Cr. Appeal (DB) No. 596 of 2013

Amarnath Mahto

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 08-10-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 376

Citation : (2014) 4 JLJR 337

Hon'ble Judges : Rongon Mukhopadhyay, J; Rakesh Ranjan Prasad, J

Bench : Division Bench

Advocate : Mahesh Tiwari, Advocate for the Appellant

Judgement

I.A. No. 3777 of 2014

1. Heard learned counsel appearing for the appellant and the State on an interlocutory application bearing I.A. No. 3777 of 2014 wherein prayer has been made on behalf of the appellant to stay the order of conviction passed against him on 15.4.2013 in Sessions Trial No. 514 of 2012, whereby the appellant has been convicted under Section 376 of the Indian Penal Code. Mr. Mahesh Tiwari, learned counsel appearing for the appellant, submits that the appellant, who happens to be the Cr.P.F. Personnel, has been convicted under Section 376 of the Indian Penal Code. After his conviction, the appellant's services has been terminated and that is the reason for filing this interlocutory application for staying the order of conviction, as so long the order of conviction will remain in force, the appellant would be out of job.

2. As against this, learned counsel appearing for the State submits that the ground, which has been taken on behalf of the appellant for staying the order of conviction, is not tenable, in view of the decision rendered in a case of State of Maharashtra through CBI, Anti Corruption Branch, Mumbai Vs. Balakrishna Dattatrya Kumbhar, , wherein Their Lordships have categorically held that a plea of losing a job cannot be said to be tenable for staying the order of conviction.

3. Having heard learned counsel appearing for the appellant and on perusal of the record, we do find that the appellant has been convicted under Section 376 of the Indian Penal Code. However, on appeal being preferred by the appellant, the order of sentence has been suspended by this Court and now the prayer has been made to stay the order of conviction on the ground that upon conviction of the appellant under Section 376 of the Indian Penal Code, the services of the appellant has been terminated and thereby, the consequence of conviction has already ensured and, hence, the ground taken does not appear to be tenable, in view of the decision rendered in a case of State of Maharashtra (supra) whereby the Hon"ble Supreme Court, after placing reliance of number of decisions has been pleased to observe as under:--

"15. Thus, in view of the aforesaid discussion, a clear picture emerges to the effect that the appellate court in an exceptional case, may put the conviction in abeyance along with the sentence, but such power must be exercised with great circumspection and caution, for the purpose of which, the applicant must satisfy the court as regards the evil that is likely to befall him, if the said conviction is not suspended. The court has to consider all the facts as are pleaded by the applicant, in a judicious manner and examine whether the facts and circumstances involved in the case are such, that they warrant such a course of action by it. The court additionally, must record in writing, its reasons for granting such relief. Relief of staying the order of conviction cannot be granted only on the ground that an employee may lose his job, if the same is not done."

4. In that event, we do not find it a fit case for staying the order of conviction. Accordingly, the prayer made for staying the order of conviction is hereby, rejected.

5. At this stage, learned counsel appearing for the appellant submits that the case be fixed for hearing.

6. It would be too early to fix the case for hearing, as number of matters in which the accused persons are in custody are pending. However, liberty is granted to the appellant to move for early hearing of this appeal after six months. I.A. No. 3777 of 2014 is disposed of.