

(2003) 09 PAT CK 0058
In the Patna High Court
Case No : Criminal Appeal No. 6 of 1992

Assistant Labour Commissioner

APPELLANT

Vs

Rajesh Kumar

RESPONDENT

Date of Decision : 03-09-2003

Acts Referred:

Contract Labour (Regulation and Abolition) Act, 1970 — Section 12

Citation : (2003) 3 BLJR 2371 : (2004) 1 LLJ 935

Hon'ble Judges : Braj Nandan Prasad Singh, J

Bench : Single Bench

Advocate : Prasoon Sinha, Addl. C.G.S.C, for the Appellant; J. Krishna, for the Respondent

Final Decision : Dismissed

Judgement

B.N.P. Singh, J.—The prosecution was launched against the respondent by Assistant Labour Commissioner (Central), Patna for violation of certain provisions of Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter to be referred to as the Act) and Contract Labour (Regulation and Abolition) Rules, 1971, and at trial which eventually followed, the prosecution examined three witnesses including the Reporting Officer, P.W. 2, and rest two witnesses being formal in nature. Apart from breach of other provisions of the Act, respondent was prosecuted also for violation of provisions of Section 12 of the Act.

2. The defence of the respondent at trial was that the workmen employed in the establishment were below 20 in numbers, and that apart, the work was only of intermittent or casual nature. It was sought to be shown by prosecution that after show cause was served on the respondent for violation of these provisions of the Act, the show cause received from the respondent was not found satisfactory and hence the prosecution.

3. The trial Court on appreciating evidence placed on the record and regard being had to the contentions raised, negatived prosecution version primarily on two

premises. The trial Court found that no evidence, worth the name, was placed on the record about employment of workmen, 20 in numbers in the establishment of the respondent or the work being not of intermittent nature and for which the evidence of none-exist but Vijay Shanker Sahay Srivastava, P.W. 2, who was the Reporting Officer was taken into consideration as the said witness had nowhere stated in certain terms about employment of workmen in 20 numbers, and that apart, it was acknowledged by him that he did not have knowledge that the work was not of intermittent or casual nature and for these reasons the trial Court recorded finding of acquittal which has been impugned in this appeal.

4. It seems that for violation of certain provisions of the Act, the prosecution was launched through a petition of complaint against respondent and two others. Though Cr. Appeal No. 8 of 1992, it seems from the record, stood dismissed for default, the instant appeal alone survives for consideration.

5. It was not a case in which finding recorded by the trial Court can be said against weight of mass evidence and to be unreasonable and perverse and it is well settled that even when two views were possible, that would not be a valid ground for setting aside the order of acquittal and on these premises I am of the view that since finding recorded by the Court below is on meticulous appreciation of evidences placed on the record, there was not even little scope-for interference to disturb the finding of acquittal.

6. In the result, the appeal being meritless is dismissed.