

(2012) 07 MP CK 0053

In the Madhya Pradesh High Court

Case No : Cr.R. No. 485 of 2012

In Re: Criminal Revision registered Suo Motu by Court in exercise of Powers conferred under Section 401 of the Code of Criminal Procedure, 1973

Date of Decision : 12-07-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 353, 354, 401
Penal Code, 1860 (IPC) — Section 302, 34

Citation : (2012) ILR (MP) 2280

Hon'ble Judges : Shantanu Kemkar, J

Bench : Single Bench

Advocate : Sudha Shrivastava for the Accused No. 1, Gaurav Laad for the Accused No. 2 and Mini Ravindran, Dy. G.A. for the State, for the Appellant;

Final Decision : Allowed

Judgement

Shantanu Kemkar, J.—This criminal revision has been registered suo motu by this Court in exercise of powers conferred upon it by Section 401 of the Code of Criminal Procedure, 1973, on account of an unusual situation, which is described herein-under. The accused persons Rahul and Pintu were facing Sessions Trial No. 91/ 2011 for the offence u/s 302/ 34 of the Indian Penal Code in the Court of Sessions Judge, Indore. They were in jail as no bail was granted to them. After recording of the evidence, the learned Sessions Judge heard the final arguments on 11.04.2012 and thereafter on 19.04.2012, without pronouncing the judgment of acquittal, issued release warrants of the accused persons, on the strength of which the accused persons were set free by the Jail Authorities.

2. On a complaint being received in this regard, on the instructions of Hon'ble the Acting Chief Justice, the file of the case was seized by the District Judge (I & V) Indore and statements of the Court Reader and Stenographers attached to the office of the Sessions Judge were recorded.

3. On receipt of the report of the District Judge (I & V), the matter was processed by the Registry and was placed before Hon'ble the Acting Chief Justice

for appropriate orders. On the basis of administrative order passed by Hon'ble the Acting Chief Justice, the present revision was registered as suo motu revision.

4. On 01.05.2012, while issuing notice of the revision to the accused persons, the operation of their release warrants was stayed and the Senior Superintendent of Police, Indore was directed to take steps for immediate arrest of the accused persons and to return them to Jail. In compliance of the said order on 19.06.2012, it was informed to the Court on behalf of the State Government that the accused persons namely Rahul and Pintu have been arrested and sent to Jail.

5. Heard learned counsel for the accused persons and learned Deputy Government Advocate and perused the original record of the Sessions Court.

6. Having gone through the record of the sessions trial, I find that on 11.04.2012 final arguments of the case were heard by the learned Sessions Judge and the case was fixed for 19.04.2012 for pronouncement of the judgment. On 19.04.2012, an order sheet has been recorded mentioning therein that the judgment of acquittal of Rahul and Pintu @ Model has been written separately and pronounced in the open Court which has been signed and dated. It has been further recorded in the said order sheet dated 19.04.2012 that the accused persons are in Jail and as such, an endorsement be made in the warrant that they have been acquitted in this sessions trial and they be released, if not required in any other case. However, no such written judgment was found in the record and even the order sheet dated 19.04.2012 is found to be unsigned. The record also shows that the release warrants were issued, which were signed by the Sessions Judge.

7. On the basis of the statements of the Reader, the Stenographers, the report of the District Judge (I & V) and from the explanation offered by the said Sessions Judge, it is very clear that the Sessions Judge has issued the release warrants of the accused persons without writing a judgment of acquittal.

8. Sections 353 and 354 of the Code of Criminal Procedure, 1973 deal about judgment", "it's language and contents". Section 353 provides that the judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced in open Court by the Presiding Officer immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders. It further provides that the judgment shall be pronounced by delivering the whole of the judgment or by reading out the whole of the judgment or by reading out the operative part of the judgment and explaining the substance of the judgment in a language, which is understood by the accused or his pleader. There are further requirements which need to be complied with as provided under sub-clause (2) to (8) of Section 353.

9. Section 354 provides that except as otherwise expressly provided by the Code of Criminal Procedure, every judgment referred to in Section 353 shall be written in the language of the Court; shall contain the point or points for determination; the decision thereon and the reasons for the decision; shall specify the offence (if

any) of which and the section of the Indian Penal Code or other law under which the accused is convicted and the punishment to which he is sentenced; and if it be a judgment of acquittal, shall state the offence of which the accused is acquitted and direct that he be set at liberty. Sub-Sections (2) to (6) of Section 354 provide further requirements regarding the contents of the judgment.

10. The order-sheets of the sessions case, referred to above, shows that the learned Sessions Judge heard the final arguments on 11.04.2012 and then fixed the case for pronouncement of the judgment on 19.04.2012. Thereafter, on 19.04.2012 no written judgment was passed and on the basis of some oral order of acquittal the accused persons were released on the basis of release warrants signed by the Sessions Judge.

11. Having considered the aforesaid order-sheets and the legal requirement of "judgment" and "the language and contents of the judgment" as provided under Sections 353 and 354 of the Code of Criminal Procedure, it is clear that the Criminal Court of original jurisdiction cannot pronounce the operative part of the judgment and thereafter to proceed to write the judgment. The Presiding Officer is required to deliver either the whole of the judgment or has to deliver in the Court by writing or dictating the judgment or a previously written judgment can be pronounced by reading out the whole judgment or reading out the operative part of the judgment and thereafter to sign the every page of the judgment giving date of pronouncement. The judgment is required to contain the point or points of determination, decision thereon and reasons for the decision. [See. Udai Narain Vs. State of U.P. and Others,

12. Thus, in my considered view, the learned Sessions Judge has committed a manifest illegality by acting in violation of the mandate of Sections 353 and 354 of the Code of Criminal Procedure. Signing the release warrants in the absence of any judgment of acquittal and consequent release of the accused persons has led to miscarriage of justice.

13. In the circumstances to prevent abuse of the process of law, the revision petition deserves to be is hereby allowed. The aforesaid oral pronouncement of judgment of acquittal, as recorded in the unsigned order sheet dated 19.04.2012 and the release warrants issued by the Sessions Judge, deserves to be and are hereby quashed.

14. The learned Sessions Judge shall now pronounce the judgment expeditiously, keeping in view the provisions contained in Sections 353 and 354 of the Code of Criminal Procedure, after giving an opportunity of hearing to the learned counsel for the parties. Registry is directed to send back the record of the Sessions Court forthwith.