

(2001) 02 CHH CK 0006
In the Chhattisgarh High Court
Case No : M.Cr.C. No's. 331 and 335 of 2001

Kamla Bai Shriwas

APPELLANT

Vs

State of Chhattisgarh

RESPONDENT

Date of Decision : 24-02-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 174, 438
Penal Code, 1860 (IPC) — Section 304B, 34

Citation : (2002) 2 DMC 428

Hon'ble Judges : R.S. Garg, J

Bench : Division Bench

Advocate : Prashant Mishra, for the Appellant; Ranbir Singh and K.S. Dhruv, S.I. of Police, for the Respondent

Final Decision : Allowed

Judgement

R.S. Garg, J.—Heard. This order shall dispose of M. Cr. C. No. 331/2001, Kamla Bai Shriwas v. State of Chhattisgarh, and M. Cr. C. No. 335/2001, Barat Ram and Anr. v. State of Chhattisgarh.

2. On 13.2.2001 while going through the case-diary and day-to-day proceedings recorded by the Investigating Officer Mr. K.S. Dhruv, I found that there was mention of certain statements which were recorded by said K.S. Dhruv. I was surprised to see that the said statements were not available in the cases diary. I required the learned Counsel for the State to call Mr. K.S. Dhruv, along with the said statements and explain his conduct.

3. In accordance with the proceedings dated 13.2.2001, Mr. K.S. Dhruv, Investigating Officer, is present in the Court with the statements of Kamla Bai, Lakhan Lal, Barat Ram, Shriram, Bisahin Bai and Purushottam. The said statements were recorded on 24.9.2000.

4. Learned Counsel of the State after going through these statements submits that if these statements/documents are taken into consideration, it would appear

from the records that no offence could be registered against the present applicants because all the said witnesses had given a clean chit to the accused.

5. Mr. K.S. Dhruv submits that due to some inadvertence or lapses on his part he could not include these documents in the case-diary. I am at a loss to understand as to how these important documents could not be included in the case-diary, while all other documents are part of the case-diary. Explanation of Mr. K.S. Dhruv is not only vague, but is false to his own knowledge. It appears that with a result-oriented approach, the said officer kept behind the documents and did not make the same as part of the case-diary and did not choose to produce the said documents with the case-diary. Suppression of the material documents which leads or tends to help the accused is not only immoral, but is illegal and is contrary to the provisions of law. The statements recorded u/s 174, Cr. P.C. are a part of the investigation. These statements provide basic foundation to the police agency to proceed further in the matter or to drop the proceedings. When important documents are suppressed and are not produced in the Court with the case-diary, then, the same speaks against the conduct of such Investigating Officer. The manner in which the documents were taken out from the case-diary, were suppressed and not produced in the Court would clearly show that the explanation submitted by Mr. K.S. Dhruv is not as simple and innocent as it is projected to be. The conduct of this officer shows that he has no respect either for the freedom of a citizen or for his own uniform or towards the duty assigned to him. It is most unfortunate that a police officer acts dishonestly and does not discharge his duties in accordance with law.

6. Issue notice to Sub-Inspector K.S. Dhruv of Police Station Baradwar, as to why the full term provided under the provisions of Contempt of Courts Act should not be awarded to him for his callous, unscrupulous and dishonest conduct in suppressing the material documents, to obtain a favourable order in favour of the prosecution. The officer shall be obliged to submit his reply on or before 12th March, 2001.

7. The matter be listed for consideration on 13.3.2001.

8. It is made clear that if the said Officer does not appear in the Court on the said date, this Court may issue non-bailable warrant to secure his attendance and may take his absence to be a further contempt of the lawful authority of this Court.

9. After going through the said documents and the case-diary relating to Crime No. 174/2000 of Police Station Baradwar, District Janjgir-Champa, for offence punishable under Sections 304B/34, I.P.C., I consider present to be a fit case for granting an order under Sections 438, Cr.P.C. The application is allowed.

10. It is directed that in the event of arrest of the present applicant Kamla Bai Shriwas, on her furnishing a personal bond in the sum of Rs. 10,000/- with one surety in the like amount to the satisfaction of the police officer arresting her, she shall immediately be released on bail by the said officer for her appearance

before the police for the purpose of interrogation and before the Court or as and where so directed.

11. So far as the application of the applicants Barat Ram and Parmanand Shriwas u/s 439, Cr. P.C. is concerned, after going through the aforesaid documents and the case-diary relating to Crime No. 374/2000 of Police Station Baradwar, District Janjgir-Champa, for offence punishable u/s 304B/34, I.P.C., I consider present to be a fit case for granting an order u/s 439, Cr. P.C. The application is allowed.

12. It is directed that the applicants Barat Ram and Parmanand Shriwas be released on bail on their furnishing a personal bond in the sum of Rs. 10,000/- each with one surety in the like amount each to the satisfaction of the Chief Judicial Magistrate, Janjgir-Champa, for their appearance before the said Court/Committal Court/Trial Court or as and where so directed.

13. It is also directed that this officer shall not make any further investigation in the matter and the investigation shall be conducted either by the Supdt. of Police or Addl. Supdt. of Police or by some Senior Police Officer.

14. A copy of this order be immediately sent to the Director General of Police, Raipur, for information and necessary action in accordance with law.

The Director General of Police shall be obliged to look into the seriousness of the charges and shall be obliged to inform this Court as to what action he proposes.

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