
(2008) 04 JH CK 0106
In the Jharkhand High Court

Rana Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 02-04-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 340, 341
Penal Code, 1860 (IPC) — Section 302

Citation : (2008) 3 JCR 81

Hon'ble Judges : Dhananjay Prasad Singh, J; Amareshwar Sahay, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard learned Counsel for the parties.

The present appeal has been preferred by the appellant Rana Singh u/s 341, Cr.PC against the order dated 10.8.2007 passed by AJC-XI, Ranchi in Misc. Case No. 1/2007 arising out of Sessions Trial No. 168/2001.

2. Before coming to the merit of the present appeal, the admitted facts on record are relevant for proper appreciation of the merit of the appeal.

3. The appellant Rana Singh is facing trial u/s 302, IPC registered as Sessions Trial No. 168/2001. PW 9, Renu Kumari was examined by the prosecution on 19.5.2003. After this on 18.6.2004 co-accused Munna Rai @ Shatrughan Rai filed a petition that said Renu Kumari was actually Surekha Kumari and she may be prosecuted for giving false evidence. When the trial Court denied to entertain such petition, Cr. Appeal No. 1761/2004 was preferred before this Court, which was disposed of with direction to make enquiry and proceed in accordance with law. The trial Court accordingly conducted enquiry and passed the impugned order discussing the materials available before it at length holding that the appellant failed to make out that Renu Kumari has impersonated Rekha Kumari @ Surekha Kumari as witness in this case.

4. It has come in the impugned order that the Hazri of said Renu Kumari was

filed on 12.5.2003 and on 19.5.2005 she was cross-examined by the defence. However no petition was filed when she was examined that she was not Renu Kumari rather Rekha Kumari @ Surekha Kumari said to be sister of the deceased. The prosecution has asserted that she was produced by the police and examined by the concerned APP as Renu Kumari as per identity and there is nothing to show that she was not Renu Kumari. Learned trial Court has further mentioned that when this witness was produced on 12.5.2003, the petition filed on behalf of other accused persons namely Sanjeev Kumar @ Guddu and Bablu Kumar Chaurasia @ Dilip Kumar Chaurasia did not mention that Renu Kumari has been impersonated by Rekha Kumari @ Surekha Kumari.

5. By filing this appeal, the appellant has Asserted that the learned trial Court has committed a mistake by not believing the evidence of Sri Arbind Kumar Sigh and Sushil Kumar, advocates. It also mentions that the address given by said Renu Kumari was different from the address given in the charge-sheet. According to this memo of appeal, the learned APP. who produced Renu Kumari as witness, has admitted that he did not know this witness from before. Therefore said Surekha Kumari having not appeared before the enquiring Court should have been prosecuted for impersonating Renu Kumari.

6. Our attention was drawn towards the report of ASI Gupteshwar Singh, dated 7.8.2007, vide Annexure 3. though he did not appear before the lower Court to support it. It is apparent that on 19.5.2003 the said witness Renu Kumari was examined as PW, cross-examined and discharged by the Court. The copy of evidence of said Renu Kumari as PW 9 shows that this fact has been denied by her during cross-examination by the defence at length.

7. The learned Court below has discussed this aspect in the impugned order at page 5 to 8 and finally held that no case of impersonation could be made out. Reason given by the learned Court below at pages 13 and 14 goes to show that in spite of allegations and witnesses produced by the appellant, no materials were available on record before the trial Court to initiate a proceeding u/s 340, Cr.PC.

8. Having considered the provisions of enquiry as envisaged u/s 340, Cr.PC, we find that it is only the trial Court, before whom said Renu Kumari has appeared, was competent to satisfy itself that Surekha Kumari has appeared as Renu Kumari as PW 9 during trial. It has also come on record that witnesses examined by the appellant have not been able to show that actually the said witness, PW 9 was Surekha Kumari. We have gone through the statements of PW 9 and find that on this point she has been cross-examined at length. It is apparent from the said evidence that she could not be discredited on this point that she was not Renu Kumari rather Surekha Kumari.

9. Having considered the facts and circumstances, as stated above. We are of the view that the order dated 10.8.2007 passed by the learned trial Court in Misc. Case No. 1/2007 does not require any interference.

10. In the result, we find no merit in this appeal, which is, accordingly, dismissed. Office is directed to send down the lower Court records to the Court below forthwith.