
(2002) 07 JH CK 0094

In the Jharkhand High Court

Case No : Criminal Revision No. 198 of 1996 (R)

Ruplal Mahto

APPELLANT

Vs

State of Bihar and Another

RESPONDENT

Date of Decision : 30-07-2002

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302

Citation : (2002) 07 JH CK 0094

Hon'ble Judges : Vishnudeo Narayan, J

Bench : Single Bench

Advocate : C.S. Prasad, for the Appellant; Triveni Mishra, APP, B.B. Sinha and Lily Sahay for Opposite Party No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Vishnudeo Narayan, J.—This revision has been preferred by informant Ruplal Mahto against the judgment dated 17.6.1996 passed in Sessions Trial No. 99 of 1993 by Sri Subhas Chandra Jha, Addl. Sessions Judge, Bermo at Tenught whereby opposite party No. 2 was not found guilty and acquitted. It appears that opposite party No. 2 was prosecuted for the offence punishable under Sections 302/201 of the Indian Penal Code for committing the murder of Annu Mahto in village Panchmo, PS Mahuatand, District Bokaro and he got the evidence of the offence to disappear with an intention to screening himself from legal punishment.

2. The prosecution case is that on 7.10.1991 Annu Mahato aged about four years, the grand-son of informant, was found missing in the evening and on search his dead body was found in a pond in the eastern, portion of the village and there was suspicion that opposite party No. 2 has committed his murder due to enmity.

3. The learned court below in para 6 of the impugned judgment has stated that thirty adjournments were given in this case for the evidence of the prosecution

witnesses and Addl. P.P. did not produce any witness for evidence for the prosecution and even dasti summons was handed over to the Addl. P.P. for the evidence of prosecution witnesses besides warrant of arrest bailable and even the letter to the S.P. and D.C., Bokaro for the evidence of the prosecution witnesses went in vain and in this view of the matter, there is no legal evidence on the record and opposite party No. 2 was not found guilty and accordingly acquitted.

4. It has been submitted by the learned counsel for the petitioner that during the pendency of the case the informant- petitioner had approached the Addl. P.P. but he could not know the position of the case and he was told by the Addl. P.P. that he will be informed about the case in due course and even the dasti summons handed over to the Addl. P.P. was never served upon him and his witnesses. It has also been submitted that the warrant was never served upon the petitioner or his witnesses and the petitioner should not suffer for the laches on the part of the Addl. P.P. It has also been submitted that the impugned order suffers with illegality and impropriety requiring an interference therein for the ends of justice. In course of argument the learned counsel for the petitioner has placed reliance on the case law reported at Budhua Vs. Emperor, and Jatindra Kr. Bhattacharjee Vs. The State, .

5. Learned APP has submitted that the learned court below was diligent and he has taken all steps in accordance with law to procure the attendance of the witnesses for their evidence but when the witnesses did not appear inspite of thirty adjournments granted in the case for evidence the court had no other option but to close the prosecution case and thereafter he has rightly acquitted the petitioner and, therefore, there is no illegality in the impugned order.

6. It appears from the perusal of the records that on the basis of the fardbeyan of the petitioner, the case was initially lodged against unknown accused persons. It has been stated that there was enmity between the petitioner and opposite party No. 2 and opposite party No. 2 has several times assaulted the petitioner and there is also land dispute between them and he has always intimidated him to be done to death. It appears from perusal of the fardbeyan of the petitioner that a mere suspicion has been cast on opposite party No. 2 for murder of Annu Mahto aforesaid. Charge in this case has been framed on 9.3.1994 and on that very day APP was directed to produce the witnesses for their evidence and for that purpose dasti summons has been ordered to be handed over to the APP for the evidence of the witnesses of the prosecution. Thereafter there were several adjournments and no witness was brought before the court by the prosecution for their evidence. Even a letter was sent to the S.P. and D.C., Bokaro to intimate the P.S. concerned to procure attendance of the witnesses for the prosecution but it did also yield no result. The APP conducting the case also did not submit the execution report of the dasti summons for the reasons best known to him. It appears that about thirty adjournments were granted in this case within a period of two years for the evidence of the prosecution witnesses but no prosecution

witness could be brought before the court for their evidence. In such a situation there was no course open to the learned court below but to close the prosecution case. The principle enunciated in the aforesaid case laws is not relevant regarding the matter in controversy in this case and the aforesaid case laws are of no help to the petitioner.

7. Therefore, in the facts and circumstances of this case, I see no illegality or impropriety in the impugned judgment of the learned Court below requiring an interference therein. There is no merit in this revision and it fails. The revision petition is hereby dismissed.