
(2011) 06 KAR CK 0066

In the Karnataka High Court

Case No : Criminal Revision Petition No. 134/3010

Sri. Akram Sab

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 07-06-2011

Acts Referred:

Child Labour (Prohibition and Regulation) Act, 1986 — Section 14

Citation : (2011) 06 KAR CK 0066

Hon'ble Judges : V. Jagannathan, J

Bench : Single Bench

Advocate : Manjunatha Pettenashetty, for the Appellant;

Final Decision : Allowed

Judgement

V. Jagannathan, J.—This revision petition though listed for admission, is disposed of finally since the records have been secured.

2. The Petitioner who is running a furniture shop at Seegebhagi village, Bhadravathi taluk was charged with the commission of the offence punishable u/s 14 of the Child Labour (Prohibition and Regulation) Act, on the footing that when the labour inspector visited the furniture shop of the Petitioner namely "Kohinoor Wood Industries", it was noticed that there was a boy below 14 years of age being found working in the said wood industry and therefore, the Petitioner was brought to the trial. However, when the Petitioner not pleading guilty, the prosecution examined four witnesses and four documents were marked. Accused statement was recorded and it was followed by the Petitioner not choosing to lead any evidence and after evidence appreciation, the learned trial Judge convicted the Petitioner and imposed sentence of fine of Rs. 10,000/- to be paid by him and in default, to undergo S.I. for 3 months. The Petitioner questioned the said judgment before the lower appellate court and the appeal was dismissed.

3. Learned Counsel for the Petitioner submitted that, if the evidence of the

prosecution witnesses is carefully gone through, it does not indicate that the Petitioner had engaged one Amanulla as child labour in his shop. Out of the four witnesses, PW-1 the Head Master of the school who speaks about the age of the boy Amanulla being 11 years and issued Ex.P1 the certificate in this regard. PW-2 is the mother of the boy Amanulla and she has deposed in her evidence that her son had gone to the shop of the Petitioner to bring sawdust. PW-3 is the senior labour inspector and he pleads to the fact of he having visited the furniture shop of the Petitioner and noticing the boy working in the said furniture shop. PW-4 is another labour inspector who also speaks in similar fashion.

4. Coming to the evidence of P Ws 3 & 4 in particular, submission made is that, though the said witnesses say in their examination-in-chief that they saw the boy working in the furniture shop of the Petitioner, in the cross-examination both these witnesses have stated, they only saw the boy being present in the furniture shop and he was not doing any work. Moreover, no spot mahazar was drawn by PW-4 and more importantly, the boy in question Amanulla was not examined before the trial court to prove the prosecution case. Under these circumstances, the conviction of the Petitioner cannot be sustained in law.

5. On the other hand, learned HCGP submitted that the judgment of the trial court relied on the evidence of P Ws 3 and 4.

6. Having thus heard both sides and after going through the evidence on record, it is observed that PW-1 speaks to the age of the boy as 11 years and PW-2 is the mother of the boy and her evidence is that, her son had gone to the shop to bring sawdust. P Ws 3 & 4 are the material witnesses and though they say in their examination-in-chief that they saw the boy working during the cross-examination, they have given a (sic) to statement by stating that they did not see the boy doing any work in the furniture shop of the Petitioner. No mahazar was drawn at the spot as admitted by PW-4, More importantly, the boy himself was not examined to support the prosecution case. Such being the nature of evidence on record, the trial court could not have convicted the Petitioner and the tower appellate court also erred in confirming the judgment of the trial court. The prosecution cannot be said to have prove its case beyond all reasonable doubt.

7. For the above said reasons, petition is allowed and judgments of the courts below are set aside and the Petitioner is acquitted of the offence with which he stood charged. Amount if any deposited by the Petitioner be refunded to him.