
(2006) 01 JH CK 0039
In the Jharkhand High Court
Case No : LPA No. 446 of 2005

State of Jharkhand

APPELLANT

Vs

Umrao Roy and Others

RESPONDENT

Date of Decision : 09-01-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161
Penal Code, 1860 (IPC) — Section 304, 323

Citation : (2006) 2 JCR 275

Hon'ble Judges : S.J. Mukhopadhaya, J; Narendra Nath Tiwari, J

Bench : Division Bench

Advocate : Saurabh Arun, for the Appellant; Jitendra Nath, for the Respondent

Final Decision : Dismissed

Judgement

1. The 1st respondent-writ petitioner was made an accused in G.R. Case No. 2734 of 2000 (S.T. No. 306 of 2001) for the offence under Sections 304 and 323 of the Indian Penal Code. It was alleged that one deceased Teklal Mahato was driving his tanker No. BHO-5830. On 15.9.2000 on way to Konwa Bandh when the tanker reached on G.T. Road, the police patrolling party including the 1st respondent-writ petitioner gave signal for stopping the vehicle but the driver did not stop. The police patrolling party including the 1st respondent-writ petitioner chased tanker and got it stopped at Jorapppar, P.S. Barwadda, district Dhanbad. The members of police patrolling party including the 1st respondent writ petitioner pushed down the driver Teklat Mahato from the tanker and assaulted him on the road from butt of rifles and boot. At that time, the police officer sitting on the rear seat of the jeep directed the party to kill the driver as he did not stop the vehicle and had not paid a sum of Rs. 50/-. It was further alleged that the driver died due to assault by the police patrolling party including the 1st respondent-writ petitioner. For the same set of charge, a departmental proceeding No. 10 of 2001 was initiated against the 1st respondent-writ petitioner, who was one of the members of the said police patrolling party. One

Tinku @ Shamim, khalasi of the tanker was shown as witness. The criminal case ended with clear acquittal of the 1st respondent-writ petitioner by judgment dated 12th December, 2001 passed by the 3rd Additional Sessions Judge, Dhanbad in S.T. No. 306 of 2001. Having considered the facts and evidence on record, the learned trial Court held that there was no evidence on record that the accused persons have committed the offence and thereby held that the accused persons including the 1st respondent-writ petitioner were not guilty and acquitted them. The acquittal was clean acquittal and not on the basis of benefit of doubt. In the departmental proceeding the sole eye witness Tinku @ Shamim, the khalasi of the tanker did not utter a single word against the 1st respondent-writ petitioner and did not support the case of the prosecution. In spite of the same, as an FIR was lodged and certain statements u/s 161 of the Cr PC was recorded, the Enquiry Officer held guilty the 1st respondent-writ petitioner of the charge, though it was brought to his notice that the accused persons including the 1st respondent-writ petitioner had been acquitted by the Court of competent jurisdiction for the same set of charge. Learned Single judge having noticed the aforesaid facts, set aside the order of punishment passed in the departmental proceeding. We also find no ground made out to interfere with the impugned order dated 19th May, 2005 passed by the learned Single Judge in WP (S) No. 2331 of 2005. There being no merit, this Letters Patent Appeal is dismissed.