
(2002) 06 JH CK 0061

In the Jharkhand High Court

Case No : Criminal Appeal No. 72 of 1996

Syed Tamul Hussain

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 11-06-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 251, 256
Penal Code, 1860 (IPC) — Section 323, 427, 447, 506

Citation : (2002) CRLJ 4537 : (2002) 0 AIR JHAR HCR 1115 : 2003 RecCriR 1
502 : (2002) 3 EastCriC 311 : (2003) 1 RCR(Criminal) 502

Hon'ble Judges : Vishnudeo Narayan, J

Bench : Single Bench

Advocate : R.K. Bobby, for the Appellant; M. Patra, Assistant Public Prosecutor,
for the Respondent

Final Decision : Dismissed

Judgement

Vishnudeo Narayan, J.—This appeal has been directed by the complainant-appellant against the order dated 31-5-1996 passed by Shri A. Kumar, Judicial Magistrate, 1st Class, Seraikella in Complaint Case No. C/1 Case No. 29 of 1994 whereby all the accused respondents have been acquitted.

2. The complainant lodged a petition of complaint before the Court of A.C.J.M., Seraikella on 25-6-1994 regarding an occurrence which is said to have taken place on 12-6-94 between 8.00 A.M. and 11.00 A.M. in village Kadamdiha Kharswan, P.S. District Sighbhum West under Sections 323, 447, 427 and 506/34, I.P.C.

3. The complainant was examined on S.A. on 27-6-1994 and the learned A.C.J.M. aforesaid took cognizance of the offence under Sections 323 and 427 of the I.P.C. and transferred the case to the Court of Shri N. K. Tiwari, J.M. for trial. All the respondents appeared before the Court and they were bailed out by order dated 16-8-1994. The substance of accusation u/s 251 of the Cr.P.C. was explained to the accused/ respondents on 28-9-94 as it was a summons trial and

the appellant was directed to adduce evidence in this case. When no evidence was adduced in this case on behalf of the appellant, the learned Court below vide impugned order referred to above has been pleased to acquit the respondents u/s 256 of the Cr.P.C.

4. It has been submitted by the learned Counsel for the appellant that the witnesses of this case have been gained over by the respondents and due to the said fact the appellant could not adduce evidence in this case. It has also been submitted that on 6-4-96 a petition was filed on behalf of the appellant requesting the Court to summon the witnesses but no order has been passed on the said petition and without considering this petition the respondents have been acquitted in this case and in this view of the matter the appellant has been denied justice in this case.

5. The learned A. P. P. has submitted that 18 adjournments were granted to the appellant to adduce evidence in this case but all went in vain and no witness has been produced before the Court for evidence and finding no way out the respondents were acquitted. It has also been contended that the petition dated 6-4-96 filed by the appellant was not moved before the Court below and that is why no order was passed on the said petition. It has also been contended that there is no illegality at all in the impugned order.

6. It appears from the perusal of the record that substance of accusation was explained to the respondents on 28-9-94 and case was adjourned to 26-11-94 for the evidence of the witness of the prosecution. No witness was produced by the appellant in this case. It further appears from the record of the learned Court below that there were in all 18 adjournments in this case for recording the evidence of the witnesses but no witness was produced by the appellant for evidence in this case. Even the petition dated 6-4-1996 filed with prayer to summon the witnesses of the prosecution was not moved by the appellant for the reasons best known to him.

7. It, therefore, appears that sufficient opportunities were granted to the appellant for adducing evidence on his behalf by the learned Court below but no evidence was brought on the record by the appellant. The learned Court below has no option but to acquit the respondents in the case. I, therefore, see no illegality in the impugned order requiring interference therein. There is no merit in this appeal and it fails. The appeal is hereby dismissed.