

(2011) 09 JH CK 0018

Jharkhand High Court

Case No: I.A. (Cr.) No. 1574 of 2011 in Cr. Appeal (DB) No. 587 of 2007

Ganesh Singh

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision: Sept. 23, 2011

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 389
- Penal Code, 1860 (IPC) - Section 120B, 364A

Hon'ble Judges: Rakesh Ranjan Prasad, J; Dhirubhai Naranbhai Patel, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

D.N. Patel, J.

The present interlocutory application has been preferred u/s 389 of the Code of Criminal Procedure for suspension of sentence, awarded by the Additional Sessions Judge, Fast Track Court, Koderma, in Sessions Trial No. 123 of 2005 whereby, the present Appellant has been punished for the offence punishable under Sections 364A and 120B of the Indian Penal Code for life imprisonment.

2. Having heard counsel for both the sides and looking to the evidences on record, it appears that there is prima facie case against the present Appellant . There are enough evidences against the present Appellant . As the criminal appeal is already pending, we are not much analyzing the evidences on records, but, suffice it to say that the previously I.A. No. 2178 of 2009 was preferred for suspension of sentence, which was dismissed on merits by a detailed speaking order dated 16th November, 2009. Paragraph nos. 3, 4 and 5 whereof read as under:

3. Perused the record and proceedings of the trial court. Having heard learned Counsel for both the sides and looking to the evidences on record, there is, prima

facie, case against the Appellant accused. As the criminal appeal is pending, we are not much analyzing the evidence on record. Suffice it to say that one businessman namely, Kamal Kedia, was abducted and sizeable amount of ransom money was demanded by hatching conspiracy by the accused persons which were tried in Sessions Trial No. 123 of 2005 as well as there are two more accused who are still absconding as on today.

4. Looking to the evidences on record that one witness i.e. P.W.12, who has gone with money as ransom money has identified this present Appellant -accused. Looking to the evidences on record, there is enough material against the present applicant accused. Even, the ransom amount has been recovered which is totally at Rs. 4,20,000/ (out of this, sizable amount was recovered from present accused viz. Ganesh Singh), when the Appellant accused was in the house of another coaccused namely Tulsi Yadav, the house was raided and there was firing by accused side, upon the police also. As separate case has been registered for recovery of ransom money and firing upon the police. Money has also been identified by P.W.12. Likewise, looking to the deposition of P.W.1, who is informant and other prosecution witnesses, there is a, prima facie, case against the Appellant -accused Looking to the gravity of offence, the quantum of punishment and the manner in which the whole incident has taken place and looking to the role played by the Appellant accused and also looking to the charge of conspiracy u/s 120B of the Indian Penal Code, we are not inclined to suspend the sentence awarded by the trial court, to the Appellant -accused.

5. Learned counsel for the Appellant has argued out much in detail and insisted for further detail to be mentioned in the order, but, we are not inclined to accept his request. Suffice it to say that ransom has been recovered, there was firing upon the Police from the accused. In the Test Identification Parade, money has been identified, present appellant accused has also been identified in Court by P.W.4. Two accused are still absconding and there is enough other evidences by prosecution-witnesses.

3. Thereafter, one more interlocutory application was preferred by the very same Appellant bearing I.A. No. 773 of 2010 for the suspension of sentence. This application was also dismissed on merits by a detailed speaking order dated 23rd August, 2010 and paragraph no. 4 whereof reads as under:

4. Looking to the evidence of prosecution witnesses, specially P.W.12 to be read with deposition given by P.W.1 and P.W.10, there is enough evidence against the applicant accused. Sizable amount of ransom money was recovered, totaling Rs. 4,20,000/ (out of this, sizeable amount was recovered from present accused viz. Ganesh Singh). This applicant is also identified by P.W.1 in test identification parade.

4. In view of the aforesaid evidences on record and looking to the gravity of the offence, the quantum of punishment and the manner in which the present

Appellant is involved in the offence, as alleged by the prosecution, we are not inclined to suspend the sentence, awarded to the present Appellant , by the trial court.

5. There is no substance in this interlocutory application. Hence, the same is, hereby, dismissed.