

Ugro Barik @ Agro Barik and Others Vs State of Jharkhand

Court: Jharkhand High Court

Date of Decision: Jan. 15, 2008

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 227, 228, 288, 397, 401
Penal Code, 1860 (IPC) â€” Section 302, 304, 34

Citation: (2008) 1 JCR 640

Hon'ble Judges: Dilip kumar sinha, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

D.K. Sinha, J.

This Cr. Revision is directed against the order dated 21.5.2007 passed by the Sessions Judge, Chaibasa whereby the petition filed on behalf of the petitioners u/s 227, Cr PC for their discharge was dismissed in Sessions Trial No. 93 of 2007 and charge was

directed to be framed u/s 302/34, IPC.

2. The prosecution story in short was that in course of cleaning of a well one Budhu Mahakud died on 29.5.2005 at village Nayagaon within Gua

Police Station and it was alleged that the petitioners were responsible for that on account of the negligence as no arrangement was made for the

safety of the deceased and he died of suffocation.

3. Learned Counsel for the petitioners pointed out that initially the Gua police had registered a case of unnatural death vide U.D. Case No. 5 of

2005 on 29.5.2005 but after investigation the Investigating Officer submitted charge-sheet against the petitioners u/s 304/34, IPC.

4. The petitioners preferred their petition under Sections 397 and 401, Cr PC after commitment before the Sessions Judge for their discharge on

the grounds that the death of the deceased was accidental and for that the petitioners cannot be held criminally liable for the accidental death and

the death was only on account of the negligence on the part of the deceased. Admittedly, the petitioners were not present at the place of

occurrence when the work of cleaning of the well was going on and therefore, on ingredient for the offence u/s 304 either Part-I or Part-II is

attracted against any of the petitioners for the culpabilities.

5. Mr. Sen further submitted that the learned Sessions Judge erred by not sending back the record to the C.J.M., Chaibasa after proposing the

charge against the petitioners under the provision of Section 288(1) (a) of the Code of Criminal Procedure.

6. Heard the learned APP on behalf of the State.

7. Having regard to the facts and circumstances of the case, argument advanced on behalf of the petitioners, I do not find that the culpability of any

of the petitioners is prima facie made out u/s 304/34, IPC i.e. the offence, which is exclusively triable by the Sessions Court. At best it can be an

offence of negligence and other offence/offences exclusively triable by a Judicial Magistrate.

8. I further find from the perusal of the materials on record that no case is made out for the discharge of any of the petitioners u/s 227, Cr PC

subject to the materials collected in course of their trial. Therefore, the order impugned passed by the learned Sessions Judge, Chaibasa requires

modification in Sessions Trial No. 93 of 2007 and by modifying the impugned order dated 21.5.2007 the Sessions Judge is directed to pass

appropriate order u/s 228(1)(a) of the Code of Criminal Procedure.

This Criminal Revision is dismissed with the modification in the manner indicated above.