

## Chandra Shekhar Prasad Singh Vs State of Jharkhand

**Court:** Supreme Court of India

**Date of Decision:** July 18, 2014

**Citation:** (2015) 1 RCR(Criminal) 77

**Hon'ble Judges:** T.S. Thakur, J; A.K. Goel, J

**Bench:** Division Bench

**Advocate:** Y. Sudhir K. Singh, Santosh Mishra, Abhay Kumar, Tenzing Tsering and Tarunika Sharma, Advocates for the Appellant; Tapesh Kumar Singh and Waquas, Advocates for the Respondent

**Final Decision:** Allowed

### Judgement

@JUDGMENTTAG-ORDER

Heard. Leave granted.

1. This appeal arises out of an order dated 02.05.2013 passed by a Single Judge of the High Court of Jharkhand at Ranchi whereby CrI. M.P.

No. 1400 of 2012 filed by the Appellant has been dismissed and order dated 03.07.2012 passed in Special Case No. 12 of 2001 by the Special

Judge, Vigilance, Ranchi affirmed. The Appellant it appears was working as a Sub-Inspector of Police and was posted as In-charge Police Station

in BS City, District Bokaro. He is alleged to have demanded a bribe of Rs. 50,000/- from one Mumtaz Hasan Khan for allowing the later to carry

on his activities as a Kerosene Oil Dealer without police interference. A trap it appears was laid against the Appellant pursuant to the information

provided by the complainant to the DSP Vigilance on 22.06.2001 and a sum of Rs. 10,000/- allegedly paid to the Appellant towards as part of

the amount demanded by him, recovered from his possession. A charge-sheet was in due course filed against the Appellant before the Special

Judge, Vigilance Ranchi sometime in August, 2001. At the trial, the prosecution commenced its evidence that among others comprised the

deposition of Nagendra Choudhary P.W. 16 and Shivaji Singh P.W. 17. While depositions of the remaining prosecution witnesses had yet to be

recorded the Appellant moved an application on 04.08.2008 seeking recall of Nagendra Choudhary P.W. 16 for further cross examination. That

application was allowed by the Trial Court by a cryptic order on 16.12.2008 which simply said ""allowed on cost of Rs. 500/-"" Shivji Singh, P.W.

17 was then examined on 18.12.2008 for whose recall also an application was filed by the Appellant on 20.01.2009 which too was allowed by

the Trial Court subject to payment of costs of Shivji Singh 1,000/- to be deposited by the Appellant. A perusal of the interim orders passed by the

Trial Court between 20.01.2009 to 18.06.2012 shows that the case was repeatedly adjourned for recording the prosecution evidence on

numerous dates of hearing. No prosecution witness appears to have been served or examined during the intervening period of three years. Even so

on 18.01.2012 an application was filed on behalf of the Appellant for permission to deposit the costs awarded by the court for the recall of the

two witnesses mentioned above. That application was dismissed by the Trial Court by its order dated 03.07.2012 primarily on the ground that the

order directing recall of the witnesses had been passed as early as in the year 2008-2009 but the accused-Appellant had despite lapse of 3 1/2

years failed to comply with the direction regarding deposit of costs.

2. Aggrieved by the refusal of the Trial Court, the Appellant unsuccessfully approached the High Court who as noticed above has dismissed the

Crl. M.P. filed by the Appellant and affirmed the order passed by the Trial Court.

3. We have heard learned Counsel for the parties at some length. We cannot help saying that we are anguished at the insensitivity of the

prosecution as also the Trial Court concerned where the matter has languished for the past many years. The Trial Court has during all this time

adopted a wooden approach and adjourned the case mechanically not once but more than a dozen times without so much as stating the reasons

for such adjournments. There is nothing from these orders even to suggest that the court was conscious of the fact that the case was under The

Prevention of Corruption Act that required effective orders to ensure speedy disposal. Leave aside ensuring that summons are issued and served

upon the prosecution witnesses, the orders do not even suggest that the court ever adverted to that aspect or directed the concerned process

serving agency or the jurisdictional police station to ensure service. If summons had been served and witnesses did not turn up, the court could and

indeed ought to have issued bailable or even non-bailable warrants against them. It is the apathy of the court towards the conclusion of the trial that

has disappointed us. Even the public prosecutor's conduct is cavalier. For all we know the attitude adopted by the prosecution may be because a

police officer is being tried for bribery. We deprecate such unpardonable dereliction of duties by all those concerned with the case. The

circumstances in which the recall orders are made tell another story. The orders are non-speaking, mechanical and somewhat telegraphic in nature.

Be that as it may, those orders have been allowed to attain finality by the prosecution, and are not under challenge before us. In the circumstances

the only question that we need to examine is whether to permit the Appellant to deposit no matter belatedly the amount of cost awarded by the

Court. We may have declined permission if only the prosecution had examined any witness during the intervening period and shown diligence in the

matter which is not so. In the circumstances learned Counsel appearing for the State of Jharkhand submitted that while P.Ws. 16 and 17 may not

be critical to the determination of guilt or innocence of the Appellant in the present case, they could be recalled and the trial court asked to

conclude the trial as expeditiously as possible. That appears to us to be a reasonable submission no matter made in circumstances which do not

bring much credit to the prosecution for its past directions. That apart we find from the depositions of P.Ws. 16 and 17 that they have not been

properly cross examined. Only one question in cross examination appears to have been put to both these witnesses. We fail to understand whether

this was out of inexperience of the defence counsel or deliberate to somehow prolong the proceedings. In the totality of the circumstances and in

the interest of fairness of the trial we are inclined to give a final opportunity to the Appellant to deposit an amount of Rs. 1500/- towards costs and

a further sum of Rs. 2,000/- for each one of the witnesses towards their diet money and travel expenses. The Appellant shall consequently deposit

a total sum of Rs. 5,600/- with the Trial Court within four weeks from today. Upon deposit the Trial Court shall issue summons to the two

witnesses namely Nagendra Choudhary P.W. 16 and Shivaji Singh P.W. 17 for their appearance for a date to be fixed by the Trial Court. We

make it clear that the Trial Court shall direct summons to be served through the jurisdictional police station and the SHOs concerned shall be

directed to ensure that the same are served. In case the witness do not turn up on the date fixed, the Trial court shall issue bailable warrants and if

necessary non-bailable warrants to serve their appearance. We further direct that the Trial Court shall conclude the evidence of witnesses within a

period of three months and the trial itself by 31.12.2014. The Trial Court shall submit a report about compliance of these directions to the

Registrar General of the High Court of Jharkhand at Ranchi who shall place the matter along with a copy of this order before the Hon"ble Chief

Justice of the High Court of Jharkhand for such orders as may be considered necessary on the administrative side for any delay or default in the

implementation of the directions hereby issued.

The appeal is allowed in the above terms.