
Geeta Devi Vs State Of Jharkhand And Ors

Criminal Revision No. 1069 Of 2014

Court: Jharkhand High Court

Date of Decision: May 3, 2019

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 107, 192, 202, 313#Indian Penal Code, 1860
" Section 323, 427, 448, 506#Scheduled Tribes (Prevention Of Atrocities) Act, 1989 "
Section 3(i)(x)

Hon'ble Judges: Deepak Roshan, J

Bench: Single Bench

Advocate: Ashim Kr. Sahani, Vikesh Kumar, Ajit Kumar, Mahesh Tewari, A. K. Dubey, Basant Narayan

Final Decision: Dismissed

Judgement

1. This application is directed against the judgment dated 23.07.2014 passed by the learned Sessions Judge, Dhanbad in Criminal Appeal No.94 of

2013 whereby he affirmed the judgment of acquittal dated 21.01.2013 passed by the learned Chief Judicial Magistrate, Dhanbad in Complaint Petition

No.697 of 2000.

2. The prosecution case was instituted on the basis of complaint petition filed by the complainant-Gita Devi alleging interalia that on 27.06.2000 at

about 7.30 p.m. Ravi Biswas abused her. He called her "Chamarin". When her husband heard this, he came out and requested Ravi Biswas not

to use abusive language. After sometime, the said Ravi Biswas returned with other co-accused and assaulted the complainant-Gita Devi and her

husband, Ram Dulal Mishra by "lathi". They also damaged the television and took away Rs.1,500/- from there. The complaint case was filed on

29.06.2000 and after taking cognizance under Section 192 Cr.P.C, this complaint case was transferred to the court of Judicial Magistrate, 1st Class,

Dhanbad. The First court after inquiry under Section 202 Cr. P.C found a prima facie case against the accused persons under Section 448, 323, 427,

506 of the Indian Penal Code and 3(i)(x) of SC/ST Act and issued summons against the accused on 16.12.2000. In order to prove her case, the

complainant has adduced oral as well as documentary evidence. Her husband, Ram Dulal Mishra is C.W.1 and one Amrendra Kumar, C.W.2. The

complainant has not examined as prosecution witness.

3. The Statement of the accused persons was recorded under Section 313 Cr.P.C. The defense was general denial of the occurrence. The accused

persons also adduced documentary evidence in support of their case. C.W.1 has supported the allegation made in the complaint petition alleging

therein that on 27.06.2000 at about 7:30 p.m. Ravi Biswas called his wife Gita Devi "Chamarin" and also assaulted his wife. He further stated in

his examination that when he came to rescue his wife, he was also assaulted. In his cross examination, he has admitted that Sumanto @ Nakul

Biswas had instituted a case against him and his wife being C.P.Case No.683/2000 in which he himself and his wife was convicted by the learned

court below. He has also admitted that subsequently, the parties entered into compromise. He has also stated in his cross examination with respect to

proceeding under Section 107 Cr.P.C against him at the instance of the accused persons. Amrendra Kumar who is C.W.2 has supported the case of

complainant, however, in his examination, he has stated that when he reached the house of complainant-Gita Devi, 20-25 persons were already

present there.

4. The learned CJM, Dhanbad after dealing with the evidence and documents on record, came to the specific conclusion that in absence of the

examination of the complainant-Gita Devi, the allegations made in the complaint petition has not been proved. The learned CJM has categorically

stated in its finding that C.W.1 has stated in its evidence that he was assaulted by one Asis Sinha, who is not an accused in this case, whereas at para-

9 of complaint petition it has been stated that accused persons has brutally assaulted him. After going through the evidence on record, the learned

CJM has acquitted the accused persons from the charges under Section 448, 323, 427, 506 IPC by giving them the benefit of doubt.

5. On appeal by the complainant against the judgment of acquittal, the learned Sessions Judge, Dhanbad concurred with the finding of the learned

CJM and affirmed the order of acquittal. He has categorically held that there is huge discrepancy in the statement of witnesses with the averments

made in the complaint petition regarding the manner of occurrence.

6. Mr. Ashim Kr. Sahani, the learned counsel for the petitioner has argued that the impugned judgments are not at all sustainable and the same suffers

from illegality and infirmity. He further submitted that the learned courts below failed to take into consideration that the petitioner has made out a case

of house-trespass. Further, the complainant was assaulted and abused by the accused persons. He concluded his argument by submitting that the trial

court's order is based on surmises and conjecture and the entire finding is perverse.

7. Mr. Mahesh Tewari, the learned counsel for the private respondents has vehemently argued and submitted that there is no error whatsoever in the

impugned judgments. He further submitted that it was false case and the learned courts below have rightly acquitted the opposite parties.

8. After hearing the learned counsel for the parties and perusing the documents available on record, it is an admitted fact that before filing of the

instant case there is series of litigations pending in between the parties. It is also a fact that the complainant who was the main victim of the

occurrence has not been examined in this case and the complaint petition which is the basis of complainant case has not been proved on behalf of the

complainant and there are contradictions in the evidence given by the C.W.1 with the allegations made in the complaint petition.

9. The revisional jurisdiction of the High Court while dealing with an order of acquittal passed by the trial court is more narrow in its scope. It is only in

glaring cases of injustice resulting from some violation of fundamental principles of law by the trial court, that the High Court is empowered to set

aside the order. From the very nature of this power it should be exercised sparingly with great care and caution.

10. In my considered opinion, the petitioner has failed to establish any glaring injustice resulting from violation of fundamental principles of law. There is

no illegality in the impugned order to approach this Court for appreciation of evidence and the finding which is not at all perverse.

11. In view of the aforesaid discussions, the petitioner has failed to make out a case so as to warrant any interference from this Court and as a result,

this revision application is dismissed.

12. Let lower court record be sent to the concerned court.