

Pankaj Kumar Vs. the State of Jharkhand

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Court : Jharkhand

Decided On : Jul-24-2013

Appellant : Pankaj Kumar

Respondent : The State of Jharkhand

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI B.A.No. 8622 of 2012
Pankaj Kumar.Petitioner -Versus- The State of Jharkhand.Opp.
Party With Cr.M.P.No. 1073 of 2013 Ajay Kumar Gupta.Petitioner -Versus-
Pankaj Kumar & Ors.Opp. Party ----- CORAM: THE HONBLE MR.
JUSTICE D.N.UPADHYAY For the Petitioner: Mr. Sanjay Kumar Pandey,
Advocate. [in B.A.No. 8622 of 2012] Mr. Rajesh Kumar Mishra, Advocate [in
Cr.M.P.No. 1073 of 2013] For the State: A.P.P. [in B.A.No. 8622 of 2012] For the
O.P. Mr. Amitabh, Advocate [in Cr.M.P.No.1073 of 2013] ----- 08/ 24.07.2013
The prosecution case as it appears from the F.I.R. is that the deceased Priyanka
Kumari, who was married with Pawan Kumar, died within three years of her
marriage in her matrimonial home. The informant has raised allegation that the
husband and in-laws including the petitioner had been demanding Rs. 6,00,000/-
as dowry for which Priyaka was subjected to torture by various means on several
occasions. In this connection, a case under Section 498A of the Indian Penal
Code was also lodged prior to the present case. It appears that the prayer for bail
made on behalf of this petitioner was rejected by this Court vide order dated
16.05.2012 passed in B.A.No. 2052 of 2012. That after rejection of said bail

application, the petitioner had again renewed his prayer after commitment of the case before the learned District and Sessions Judge, Chatra in S.T.No. 195 of 2012 and the prayer was rejected by the learned Sessions Judge, Chatra vide order dated 18.09.2012. The petitioner, against the impugned order dated 18.09.2012 preferred present Bail Application vide B.A.No. 8622 of 2012. In course of pendency of this bail application, the petitioner preferred another bail application before the learned Sessions Judge, Chatra in S.T.No. 195 of 2012 and in para 2 of the bail application, he has given certificate as under:- that no bail petition of petitioner has been filed in this court or any other higher court prior to this, and bail petition of petitioner no.2, has not been filed after framing of charge. It is very surprising that the learned Sessions Judge, Chatra, who was in seisin of case record of S.T.No.195 of 2012 has pleased to grant bail to the petitioner vide order dated 21.12.2012. Since the aforesaid matter has come to the knowledge of this Court in course of pendency of present bail application, this Court has taken serious view and the petitioner namely Pankaj Kumar has been directed to furnish show-cause as to why bail granted to him for concealing earlier orders by which bail was rejected, should not be cancelled. It is pertinent to mention that the informant of this case also appeared 2. before this Court and filed a Cr.M.P.No.1073 of 2013 highlighting the conduct of the petitioner as well as the learned Sessions Judge and prayed to cancel the bail granted to the petitioner vide order dated 21.12.2012 passed in S.T.No. 195 of 2012. Learned Counsel appearing for the petitioner has filed a show-cause just Yesterday disclosing therein that the petitioner had requested the learned Counsel to withdraw the present bail application and under that presumption that said bail application has been withdrawn, he had preferred another bail application before the learned Sessions Judge after framing of the charge in S.T.No. 195 of 2012. The certificate given by him in para 2 of his bail application was not intentional rather it happened due to ignorance and mis-communication. Learned Counsel appearing for the petitioner has also submitted that prior to release of the petitioner from custody, he had remained in jail for about one year after institution of this case. From perusal of the orders and documents placed before me, foul play committed by the learned Sessions Judge as well as by the petitioner is smelling. It is necessary to mention here that the petitioner is also an Advocate practising at Civil Court, Chatra and he

is fully acquainted with the norms and procedure of the Court and the consequences. From the certificate given by the petitioner in para 2 of his bail application dated 19.12.2012, it is very clear that he had intentionally concealed the filing of bail applications before the learned Sessions Judge as well as before the Honble High Court. He has intentionally concealed that his prayer for bail was rejected in the said Sessions Trial No. 195 of 2012 just two months before and his prayer for bail was also rejected by this Court vide B.A.No. 2052 of 2012. Such conduct and the declaration made by him in para 2 of his bail application cannot be considered as a mistake occurred due to ignorance or due to any inadvertence. Furthermore, the height of the situation is that on the date on which bail petition was filed i.e. on 19.12.2012 and on the date on which bail was granted i.e. on 21.12.2012, another bail application being B.A.No.8622 of 2012 filed on behalf of the petitioner was already pending before this Court. Considering aforesaid aspect of the matter, the bail granted to this petitioner vide order dated 21.12.2012 passed in S.T.No. 195 of 2012 is hereby cancelled. Accordingly, the petitioner is directed to surrender before the court-below within 10 days from the date of this order and the order may be communicated to the petitioner through Registrar, Civil Court, Chatra as well as through the Secretary, District Bar Association, Chatra because he is a practising Advocate of that District. It further appears necessary to mention that the then learned Sessions Judge has superannuated from his service in that very month i.e. on 31st December, 2012 and 10 days prior to his retirement he has passed the impugned order in utter violation of judicial discipline. Such Judicial Officer needs punishment and therefore, I feel it desirable to place the matter before Honble the Chief Justice for taking appropriate action for which the Registrar (Administration) shall do needful. The present bail application has now become infructuous because the 3. petitioner has been released on bail by the learned Sessions Judge while this bail application was pending before this Court and, therefore, it stands dismissed. Accordingly, Cr.M.P.No.1073 of 2013 stands allowed and I.A.No.2004 of 2013 is disposed of. [D.N.Upadhyay,J.] P.K.S.