

Manish Soni Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Jan-28-2013

Appellant : Manish Soni

Respondent : The State of Madhya Pradesh

Judgement :

Criminal Revision No.2458/2012 28.1.2013 Shri Sankalp Kochar, Advocate, for the applicant.

Shri Satish Chaturvedi, Advocate, for the respondent.

Heard on admission.

This revision is directed against the order dated 17.12.2012 passed in Special Sessions Trial No.02/2012 whereby he has dismissed the applicants applications filed under sections 91 and 309 of the Code of Criminal Procedure, 1973 (in short, the Code.).The applicant is a Sub-Inspector in the State Police Service.

He and T.R.Choudhary, Assistant Sub-Inspector, are being prosecuted for allegedly accepting bribe from complainant Hukum Yadav.

In the charge sheet filed against them it is clearly stated that the complainant had produced the voice-recorder in which conversation regarding demand of bribe was recorded and a transcript of the same was prepared.

It is also stated therein that with the help of a laptop, two compact discs of the transcript were prepared which were seized and sealed separately in envelopes.

During the trial, on 13.12.2012 examination-in-chief of Pradeep Jain (P.W.7) was recorded.

He in his evidence stated that the complainant had produced a cassette in which the conversation regarding demand of bribe by the accused persons was recorded.

Pradeep Jain then said that the cassette was played in the tape- recorder and its transcription was written whereafter two compact discs of the conversation of transcript were prepared.

After recording of the examination-in-chief of Pradeep Jain he was cross-examined by the Co.accused through his counsel.

The learned counsel for applicant, however, prayed for time to cross-examine him on the next date of hearing.

On 17.12.2012 Pradeep Jain again appeared in the court for his cross-examination by the counsel for applicant but the latter, instead of cross-examining, filed an application under section 91 of the Code for a direction to produce the original cassette.

In reply, the learned Government Advocate stated that copy of the transcription of conversation has been already supplied to the accused persons.

He also made a statement that even the copies of compact discs of the conversation prepared through laptop have been supplied to him.

The learned Government Advocate further clarified that the conversation was recorded in the voice-recorder and with the use of laptop, compact discs were prepared.

As regards the cassette, the Government Advocate made a specific statement that it was not in existence.

The trial court, having regard to the statement made by the learned Government Advocate that the cassette was not in existence, rejected the applicants application filed under section 91 of the Code.

The trial court then asked the counsel for applicant to cross-examine Pradeep Jain but the counsel refused to do so and instead filed an application for adjournment on the ground that he intends to file a criminal revision before the High Court.

The trial court rejected the application for adjournment and discharged the witness.

As according to the learned Government Advocate the cassette is not in existence, the trial court has rightly rejected the applicants application for producing something which is not in existence.

Also witness Pradeep Jain was summoned for cross-examination on the request of applicants counsel.

But the counsel after rejection of application felt his vanity hurt and declined to cross-examine Pradeep Jain.

It is to be noted that Pradeep Jain is a Government Officer and had appeared in the court for his cross-examination after coming from another district.

In all fairness, the counsel for applicant ought to have cross-examined him.

In the fact situation of the case when the counsel for applicant himself decided not to cross-examine Pradeep Jain, the trial court was left with no option but to discharge him as witness.

And for this, counsel for applicant is himself to be blamed.

Needless to mention that not it is well-settled that adjournment cannot be granted merely for asking, more particularly in a special case when the witness has come from a distant place.

(Also see decision dated 6.12.2012 of the Supreme Court in Akil alias Javed versus State of NCT, in Criminal Appeal No(s).1735 of 2009) We do not find any merit in the revision.

It is accordingly dismissed summarily.

(AJIT SINGH) (U.C.MAHESHWARI) JUDGE JUDGE ps

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