

Rajkumar Patel Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Apr-10-2013

Appellant : Rajkumar Patel

Respondent : The State of Madhya Pradesh

Judgement :

Criminal Revision No.352/2013 10.04.2013 Shri Akhilesh Singh, Advocate for the applicants.

Shri Prakash Gupta, Panel Lawyer for the respondent-State.

Heard on the question of admission.

By this Criminal Revision under Section 397/401 of Cr.P.C.the applicants have challenged the order dated 22.1.2013 passed by the learned Additional Sessions Judge/Special Judge, Sidhi in ST No.257/2010 whereby the charge of offence punishable under Section 364-A of IPC was framed against the applicants.

The prosecution case, in short, is that the applicants took a contract to provide some gitty to the victim Yogendra Pandey.

Out of the payment of Rs.1,20,000/-, a sum of Rs.40,000/- was paid and sum of Rs.80,000/- was remained.

Thereafter the victim Yogendra Pandey was abducted.

The various dacoits, who abducted the victim Yogendra Pandey have stated that they were hired by the applicants.

Thereafter the applicants were arrested and a trial was proceeded.

After considering the submissions made by the learned counsel for the parties and evidence collected by the prosecution, it is apparent that the applicants were not found with the dacoits when the victim Yogendra Pandey was abducted.

There is no evidence that the applicants had participated in getting the ransom for release of the victim.

The entire case depends upon the circumstantial evidence and only one circumstance is available with the police that the concerned dacoits have stated that they were hired by the applicants.

However, the memos under Section 27 of the Evidence Act given by the various dacoits are not admissible against the present applicants in toto, because those were not admissible against themselves, as the statements recorded of those accused were away from the provisions of Section 27 of the Evidence Act, and therefore the remaining portion of their statements could not be read in evidence at all.

There is no any evidence other than the evidence given by the co-accused persons against the applicants.

It is nowhere shown that out of those accused persons, someone was granted any pardon by the concerned Chief Judicial Magistrate and he has to appear as a witness.

Under such circumstances, the evidence given by the co-accused persons cannot be taken as an evidence in the eye of law.

Consequently, there is no evidence with the police to say that the present applicants participated in the alleged crime of abduction of the victim Yogendra Pandey.

Under such circumstances, the learned Additional Sessions Judge has committed an error of law in framing the charge under Section 364-A of IPC against the applicants.

Hence, It is a fit case in which an interference is required from the side of this Court by way of this revision.

Consequently, the present revision filed by the applicants is hereby allowed.

The impugned order dated 22.1.2013 passed in ST No.257/2010 is hereby set aside.

The applicants are discharged from the charge of Section 364-A of IPC.

A copy of this order be sent to the trial Court for information and compliance.

(N.K.Gupta) Judge Ansari

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