

Jitender Kumar @Jitender Singh Vs. The State of Bihar

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Court : Supreme Court of India

Decided On : May-10-2019

Judge : Hon'Ble Mr. Justice Abhay Manohar Sapre, Hon'Ble Mr. Justice Dinesh Maheshwari

Appeal No. : 12787 / 2019

Appellant : Jitender Kumar @Jitender Singh

Respondent : The State of Bihar

Advocate for Def. : Ms. Hemlata Ranga

Advocate for Pet/Ap. : Kumar Mihir

Judgement :

NONREPORTABLE IN THE SUPREME COURT OF INDIA CRIMINAL APPELLATE JURISDICTION CRIMINAL APPEAL No.888 OF2019(Arising out of S.L.P.(Crl.) No.3502 of 2019) Jitender Kumar @ Jitender Singh .Appellant(s) VERSUS The State of Bihar .Respondent(s)

JUDGMENT

Abhay Manohar Sapre, J.

1. 2. Leave granted. This appeal is directed against the final judgment and order dated 28.03.2019 passed by the High Court of Judicature at Patna in Criminal Miscellaneous No.5293 of 2019 whereby the High 1 1 Court dismissed the petition filed by the appellant herein.

3. A few facts need mention hereinbelow for the disposal of this appeal, which involves a short point.

4. By impugned order, the High Court (Single Judge) dismissed the petition filed by the appellant herein under Section 482 of the Code of Criminal Procedure, 1973 (for short, Cr.P.C.) and, in consequence, affirmed the order dated 09.04.2015 passed by the Chief Judicial Magistrate, Jamui in connection with P.S. Case No.154 of 2013 whereby the appellant along was summoned to face Session Trial No.280 of 2016 pending in the Court of First Additional & Sessions Judge, Jamui for the offences punishable under Sections 302, 325, 326, 331, 352 read with Section 34 of the Indian Penal Code, 1860 (for short, IPC). 2 2 5. The short question, which arises for consideration in this appeal, is whether the High Court was right in dismissing the appellant's petition.

6. Heard Ms. Anjana Prakash, learned senior counsel for the appellant and Ms. Hemlata Ranga, learned counsel for the respondentState.

7. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow this appeal, set aside the impugned order and remand the case to the High Court (Single Judge) for deciding the appellant's petition afresh on merits in accordance with law.

8. The need to remand the case to the High Court has occasioned because on perusal of the impugned order, we find that paras 1 to 4 contain facts of the case, paras 5 and 6 contain the submissions of the learned counsel for the parties, paras 7 to 9 refer to 3 3 what transpired in the Trial Court, paras 10 and 11 contain quotation from two decisions of this Court and para 12 contains the conclusion, which reads as under: 12. After giving analytical thought to the facts and circumstances of the case, the instant petition is found devoid of merit, consequent thereupon is dismissed. 9. In the entire impugned order, which consists of 13

paras, we find that the High Court did not assign any reason as to why the petition is liable to be dismissed. In other words, neither there is any discussion and nor the reasoning on the submissions urged by the learned counsel for the parties.

10. In our view, such approach of the High Court while disposing of the petition cannot be countenanced. Time and again, this Court has emphasized the necessity of giving reasons in support of the conclusion because it is the reason, which indicates the application of mind. It is, therefore, obligatory for the Court to assign the reasons as to why the petition is allowed or rejected, as the case may be.

11. As mentioned above, para 12 only records the conclusion. It is for this reason, we feel that the matter must go back to the High Court for deciding the petition afresh on merits in accordance with law.

12. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed. The impugned order is set aside. The matter is remanded to the High Court for deciding the petition, out of which this appeal arises, afresh on merits in accordance with law keeping in view the observations made above. 5 5 13. We, however, make it clear that we have not expressed any opinion on the merits of the issues arising in the case having formed an opinion to remand the case to the High Court for deciding it afresh on the ground mentioned above. The High Court will, therefore, decide the matter on its merits uninfluenced by any of our observations made in this order.

14. The parties are granted liberty to mention the matter in the High Court for its early hearing.J.

[ABHAY MANOHAR SAPRE].J.

[DINESH MAHESHWARI]. New Delhi; May 10, 2019. 6 6