

Munna Kumar Vs. State of Bihar

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Court : Patna

Decided On : Nov-03-1999

Judge : Induprabha Singh, J.

Appeal No. : Cr. Revision No. 268 of 1995

Appellant : Munna Kumar

Respondent : State of Bihar

Disposition : Petition Dismissed

Prior history : Induprabha Singh, J. 1. This revision is directed against the judgment and order dated 29-5-1995 passed by the learned Tenth Additional Sessions Judge, Patna, in Criminal Appeal No. 184/94/2/94 whereby and whereunder the Court below has confirmed the conviction and sentence of the petitioner passed by the Judicial Magistrate, Ist Class (Railway), Patna, in R.P.F. (Patna) Case No. 7(2) 86, Trial No. 117 of 1994 in which the petitioner was convicted under Section 3A of the R.P. (U.P.) Act and w

Judgement :

Induprabha Singh, J.

1. This revision is directed against the judgment and order dated 29-5-1995 passed by the learned Tenth Additional Sessions Judge, Patna, in Criminal Appeal

No. 184/94/2/94 whereby and whereunder the Court below has confirmed the conviction and sentence of the petitioner passed by the Judicial Magistrate, 1st Class (Railway), Patna, in R.P.F. (Patna) Case No. 7(2) 86, Trial No. 117 of 1994 in which the petitioner was convicted under Section 3A of the R.P. (U.P.) Act and was sentenced to undergo rigorous imprisonment for one year.

2. The prosecution case, in short, is that on 28-2-1986 at about 16.45 the complainant Bhism Singh (P.W. 5) the head of the RPF Constable No. 17 along with Naik No. 1484 Bishunath Mali were patrolling at Digha Malgodam. On line No. 1 two wagons bearing No. S.C. 62408 and C.R. 86009 loaded by pig irons were standing and on line No. 2 one empty wagon bearing C.R. 27905 was standing. When they reached near the wagons they saw about 3-4 persons stealthily unloading pig irons from the wagons. One of them was also found opening brake blocks of the empty wagon. They were chased by the constable but three accused-persons, namely, Ramesh Kumar, Munna Kumar and Ranjeet Kumar managed to escape and they fled away and only one co-accused Ranjan Kumar was apprehended at the spot. He was found in possession of two brake blocks. On inquiry, he confessed about committing theft of brake blocks from the aforesaid wagon No. C.R. 27905. Thereafter, the complainant also checked the wagon and found two brake blocks missing from the same. They also found that six pig iron rods lying near the aforesaid two wagons, No. S.C. 62408 and C.R. 86009. The apprehended accused-person Ranjan Kumar was brought to Digha Malgodam and information was given to the inspector R.P.F., Patna, on phone. Thereafter, the inspector M.K. Thakur (P.W. 4) rushed to the spot and took charge of the Railway articles and the accused-persons. He also prepared seizure-list which is Ext. 4 and recorded the statement of co-accused Ranjan Kumar which is Ext. 5. Thereafter, the case was registered against co-accused-persons including the petitioner. On receipt of the inquiry report, the learned Magistrate took cognizance of the offence and case was committed to the Court of Session. The trial concluded with the result, as stated above.

3. I have gone through the records of the case. Both the Courts have discussed about evidence of the witnesses. There is concurrent findings of both the Courts. I do not find any illegality or irregularity in the impugned order which may require

interference by this Court.

4. Coming to the question of sentence, learned Counsel appearing on behalf of the petitioner has submitted that the occurrence took place in the year 1986, i.e., more than thirteen years ago and the petitioner has remained in jail for some time. He has also stated that nothing was recovered from the possession of the petitioner. Therefore, some lenient view may be taken while awarding sentence to the petitioner.

5. Having regard to the facts and circumstances of the case that the occurrence took place about thirteen years ago, now it will not be proper to send the petitioner again in jail custody after such a long time to serve out the remaining period of sentence. In my opinion, the ends of justice will be met if sentence of the petitioner is reduced to the period he has already undergone in jail custody with a fine of Rs. 200/- to be paid by this petitioner within three months from the date of receipt/production of a copy of this order. In default, he will further undergo rigorous imprisonment for six months.

6. With the aforesaid modification in the sentence, this revision petition is dismissed.

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