

Kapildeo Sharma Vs. State of Bihar

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Court : Patna

Decided On : May-10-2006

Judge : Rekha Kumari, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 227 and 482; Indian Penal Code (IPC) - Sections 304

Appeal No. : Criminal Misc. No. 34275 of 2004

Appellant : Kapildeo Sharma

Respondent : State of Bihar

Disposition : Application dismissed

Judgement :

Rekha Kumari, J.

1. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code) for quashing the order dated 6.5.2004 passed by the 3rd Additional Sessions Judge, Sitamarhi in Sessions Trial No. 309 of 1995 arising out of Runi Saidpur P.S. Case No. 33/94 by which he has rejected the prayer of the petitioner to discharge him under the provisions of Section 227 of the Code and has decided to frame charge under Section 304 of the Indian Penal Code.

2. The prosecution case, in brief, is that the informant was a private electrician. The petitioner is a Junior Engineer of the Bihar State Electricity Board. He was posted at Belsand Block. On the date of occurrence, he met the informant and another persons and informed them that the fuse of the pole of Athari Depot had been blown off and requested them to repair. All the three persons then reached there. The petitioner asked the informant to climb the pole to repair the fuse. He also informed that the electric line had been disconnected. The informant climbed on the pole and the moment he touched the line for repairing, he was knocked down. He received burn injuries at several places. Ultimately, he died of those injuries.

3. The F.I.R. was registered on the statement of the informant. The police after investigation submitted chargesheet under Section 304 I.P.C. Cognizance was taken for that offence and the case was committed to the court of Sessions. The petitioner filed a petition for discharge but the learned Additional Sessions Judge by the impugned order rejected the prayer.

4. Learned Counsel for the petitioner submitted that no offence under Section 304 I.P.C. is made out against the petitioner. The petitioner had no knowledge that the energy was passing through the line. Therefore, he had no knowledge that the deceased could be electrocuted and as such no offence under Section 304 I.P.C. is made out on the basis of the allegations. He further submitted that the case is one of simple accident and the allegations are not sufficient to hold that any offence much less an offence under Section 304 I.P.C. is made out against the petitioner.

5. In view of catana of decisions of the Supreme Court, it is well settled that though it is open to the High Court to quash charges framed in the trial court but the same cannot be done by weighing the correctness or sufficiency of the evidence. The principle adopted by the High Court in such cases should be that if the entire evidence produced by the prosecution are believed, would it constitute an offence or not. It is at the stage of trial that the truthfulness, sufficiency or acceptability of the evidence can be judged.

6. Therefore, it is to be seen in this case as to whether if the entire evidence is accepted, any offence is made out against the petitioner or not.

7. The impugned order shows that there is evidence that though the electric line had not been disconnected, the petitioner assured the deceased that the line had been disconnected and asked him to climb the pole and repair the fuse. Therefore, even if it is believed that the petitions had no knowledge that the line was actually not disconnected, he was junior Engineer of the locality and so, he should have verified whether the line was disconnected and should have taken precaution that the line is not connected while the work was going on. Therefore, negligence on the part of the petitioner leading to the death cannot be ruled out at this stage and it cannot be said that no offence is made out against the petitioner.

8. Therefore, it would not be proper to interfere with the impugned order. It is, however, made clear that any observation made in this order would have no bearing on the merits of the case and the learned trial court would dispose of the case on merit without, in any way, being influenced by this order.

9. In the result, this application is dismissed.