

Karyanand Singh Vs. State of Bihar

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Court : Patna

Decided On : May-06-2005

Judge : M.L. Visa, J.

Appeal No. : Cri. Misc. No. 766 of 2004

Appellant : Karyanand Singh

Respondent : State of Bihar

Judgement :

M.L. Visa, J.

1. It appears that petitioner Karyanand Singh was granted bail by this Court and on 10.4.2003, a witness on behalf of prosecution was present and on call of case, one Kumar Ashok Rai, Advocate appeared and filed a petition that Senior Advocate Mr. Harendra Prasad Singh had gone to attend the shradh ceremony of his brother and he further submitted that he had no power. At the prayer of Additional Public Prosecutor, the witness was released on personal bond and, thereafter, prosecution filed a petition that accused persons of the case were threatening the witnesses. The defence was directed to file a show cause to the petition that why their bail bonds should not be cancelled. On next date, lawyer of co-accused Mukesh Das submitted that he had no instruction. The Court below, by observing that accused persons were intentionally trying not to record the evidence of witness present and they had also not filed show cause notice,

cancelled the bail bonds of petitioner and took him to custody. On 26.5.2003, reply of show cause was filed by a lawyer who had no power in the case. Prayer of petitioner for bail was rejected by Court below and the petitioner filed this case in which his prayer for bail was allowed by this Court observing that if there was any allegation that the petitioner and Ors. were tampering with the evidence, the petition should have been filed before this Court and when no such petition was filed here, the learned lower Court should have stayed its hands in deciding the matter and copy of petition was not served upon the accused, still the bail bonds were cancelled on the ground of not filing of the show cause and subsequently even prayer for bail was rejected. From the copies of order-sheet which are in the administrative file, it appears that the name of Presiding Officer of the Court observing that the accused persons were intentionally adopting tactics for not recording the evidence of prosecution witness whose hazari was filed is Miss Gita Verma. It further shows that when a petition of prosecution was filed, the Court below gave a chance to petitioner and other accused persons to file show cause why their bail bonds should not be cancelled but they did not file any show cause on the next date and when their bail bonds were cancelled, thereafter, reply of show cause was filed on behalf of petitioner by a lawyer who had no power. Petitioner has already been granted bail by this Court. Admittedly, order of cancellation of bail by Court below was passed in a judicial proceeding and the copy of order sheet shows that on 10.4.2003, a representation petition was filed by petitioner and two other co-accused persons and when prosecution filed hazari, of one witness, a time petition was filed by one Mr. Kumar Ashok Rai, Advocate on the ground that conducting lawyer Mr. Harendra Prasad Singh had gone to attend the shradh ceremony of his brother and he had no power in the case. From this order, it appears that on 10.4.2003 when the lawyer who was holding power on behalf of accused persons was not present how a representation petition on behalf of petitioner was filed and the Court below on the same day could have cancelled the representation petition of petitioner which was without power and thereafter could have cancelled the bail bond of petitioner but still it allowed time asking the petitioner and other co-accused persons to file show cause on the petition of prosecution but since no reply of show cause was filed on next date, it cancelled the bail bonds and on that date also, prosecution witness was present but

attendance on behalf of one co-accused person was not filed on the ground that his counsel had no instruction.

2. I, therefore, find no motive on the part of Presiding Officers of Court below and matter does not require any further order.

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