

Soneram Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Aug-30-2000

Reported in : 2001(2)MPHT220

Judge : Mr. S.C. Pandey, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 287 and 338; Code of Criminal Procedure (CrPC) , 1974 - Sections 482

Appeal No. : Misc. Criminal Case No. 5701/2000

Appellant : Soneram

Respondent : State of M.P.

Advocate for Def. : Shri Prakash Gupta, Panel Lawyer

Advocate for Pet/Ap. : Shri R.P. Chopra, Adv.

Disposition : Misc. criminal case allowed

Judgement :

ORDER

S.C. Pandey, J.

1. This is an application under Section 482 of the Code of Criminal Procedure whereby the applicant required this Court to quash the proceedings in Criminal

Case No. 83/2000, pending in the Court of Judicial Magistrate, First Class, Sihora.

2. It appears that the applicant has been charged with offences under Section 287 as well as Section 338 of JPC on the basis of charge-sheet filed by Majhouli Police Station in the Court of Judicial Magistrate, First Class, Sihora. The FIR filed along with the charge-sheet shows that the applicant had given a thrasher on hire on 17-3-2000 at about 10.00 to 10.30 P.M. to Smt. Pramod Devi Paliwal. There was an accident in which Prahlad Nai suffered an injury. His left hand got severed from the wrist joint. It appears that the charge against the applicant is that he was required to supervise running of the machinery himself or to appoint some competent person. In failing to do so he was culpable within the meaning of Section 287 of IPC as well as Section 338 thereof. Section 287 of IPC reads as under :--

'287. Negligent conduct with respect to machinery.-- Whoever does, with any machinery, any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any other person.

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both,'

3. It is apparent from the above section that the applicant cannot be held guilty of the first part of Section 287 of IPC as he was not present at the spot when the alleged accident occurred. However, the prosecution in its wisdom thinks that the applicant was bound to take such care as was necessary to guard against any probable danger to human life from such machinery. However, this care has to be taken, according to second part of Section 287, IPC, by the person who is holding possession or is caretaker thereof.

4. The applicant had given thrasher on hire to Smt. Pramod Devi Paliwal. It was she who was running the thrasher for her own purpose. It was her duty to employ a competent person to see that the possibility of any danger to human life from the

use of thrasher diminished. The applicant cannot be held directly responsible for an offence punishable under Section 287 of IPC because he had no role to play. The applicant had already parted with the possession when he gave thrasher on hire and he could not control its use by Smt. Pramod Devi Paliwal.

5. Similarly an offence under Section 338 of IPC is also not made out because the applicant was not involved in any way for causing grievous hurt to Prahlad Nai. He has not done the act punishable with any of the offences for which he was charged.

6. Accordingly, this Court is of the view that the proceedings before the Judicial Magistrate, First Class, Sihora registered as Criminal Case No. 83 of 2000 deserve and are hereby quashed. The application is accordingly allowed. So, M. (Cr.) P. No. 680/2000 is disposed of,

7. Misc. Criminal case allowed.

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