

Ramroopsingh Vs. State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Jan-16-1986

Reported in : 1987CriLJ1256

Judge : K.K. Verma, J.

Appellant : Ramroopsingh

Respondent : State of Madhya Pradesh

Judgement :

K.K. Verma, J.

1. Applicant Ranroopsingh by Shri B.R. Sharma, Advance.
2. State by Shri P.D. Agarwal, panel Lawyer.
3. Letter No. 69/dated 13-1-86 of the District and Sessions judge, Shivpuri shows that the copy of this Court's order dated 3-1-86 was received by him on 11-1-86. It should have been sent in his name; the office to explain the omission. The Sessions Judge says that the report in question had been sent to the Registry with a special messenger named Devkinandan, Process Server. A copy of that report dated 24-12-85 has been enclosed with the Session Judge's memo. The Addl. Registrar will make an enquiry an fix the blame on the original report No. 983/dated 24-12-85 sent by the Addl. Session Judge, Shivpuri before this Court.

The Addl. Registrar will put up the explanations of the clerks concerned before me in the Chambers, within 10 days from today.

4. learned Counsel for both the sides have been heard on the bail application.

5. Applicant's learned Counsel has filed the order-sheet dated 10-1-86.

6. The applicant was taken into custody on 17-5-85. In Crime No. 47/85 under Section 302/34 I.P.C. of the P.S. Jigna (District Shivpuri), in respect of an incident that had occurred in the night intervening 16th and 17th May'85 at village Satari. One Chhoteraja alias Gopalsingh and one Sukhlal Kachhi died of gun short injuries. About this applicant Ramrupsingh lodged a report at the P.S. Jigna. Nearly 20 persons were accused and arrested in that case, and case is pending in the Court of Session. It appears that Baijnath is to the effect that ramroopsingh came to his house and shot him. It appears that there are no independent witness in support of this version. All this has been stated only with a view to get a proper perspective for the bail application.

7. The case in which Ramroopsingh was an accused came before the Court of Session Shivpuri in the month of August'85. Charge was framed on 17-10-85. The case was then fixed for recording of prosecution evidence on 10-1-86, 11-1-86, 13-1-86 and 14-1-86

8. A certified copy of the order sheet dated 10-1-86 filed by the applicant's learned Counsel shows that the Addl. Sessions Judge adjourned the case to 3-3-86, 4-3-86, 5-3-86 and 6-3-86 on the ground that the Public Prosecutor's submission appealed to him that he (the Public Prosecutor) had illegible copies of the challan papers,

9. The order sheet does not show whether the summonses have been issued for the witnesses and whether they have been served or not and whether any witness was in attendance in Court on 10-1-86, or not.

10. It is, therefore, clear that the prosecution, has deliberately obtained adjournment on a very flimsy ground. I wonder how the learned Addl. Sessions Judge thought it fit to grant such a request, when the original challan papers were

on record. Thus, the applicant has been made to suffer this delay, which was occasioned by state of affairs smacking of the abuse of process of the Court. Where such a state of affairs comes up, the party who has been prejudiced, is entitled to suitable relief.

11. I am therefore of the view that applicant Ramroopsingh is entitled to be released on bail. On his entering into a personal bond in the sum of Rs. 5,000/- (Rs. five thousand) with two sureties each in the like amount to the satisfaction of the C.J.M. Shivpuri for his appearance on the dates of hearing in S.T. No. 92/85 pending in the court of Addl. Sessions Judge, Shivpuri, he shall be released on bail.

12. A copy of this order sheet be sent to the Sessions Judge, Shivpuri to make an inquiry on the following points and to submit his report on the factual aspect involved : -

i) On what dates summonses were issued in S.T. No. 92/85 for the hearings on 10th January '86 to 14th Jan. '86 ?

ii) How many summonses, if issued, have been sent by the Police after service ?

iii) Whether any witnesses attended the Court on 10-1-86 ?

iv) Whether any witnesses attended the Court from 11-1-86 to 13-1-86 ?

v) The Sessions Judge will indicate what action he proposes to take against the defaulting clerks and officials, in respect of default found by him.

vi) The learned Sessions Judge will also ask the Addl. Sessions Judge, Shivpuri for his omissions on such points as non-issue/late issue of summonses to witnesses, his failure to recall, the presence or absence of witnesses on 10-1-86 and also of the fact whether summonses were back or not.

13. The Sessions Judge, Shivpuri be directed to complete the inquiry and send his report by 15th February, 1986, the report be then placed before me in chambers.

14. Certified copy of this order sheet be furnished to the counsel for the applicant on usual charges during the course of the day.

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