

Panpati Devi and Anr Vs. The State of Jharkhand

Panpati Devi and Anr Vs. The State of Jharkhand

SooperKanoon Citation : sooperkanoon.com/68553

Court : Jharkhand

Decided On : Jan-28-2016

Appellant : Panpati Devi and Anr

Respondent : The State of Jharkhand

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI B.A. No.2421 of 2014 1. Panpati Devi, daughter of Mundarika Chaudhary; 2. Shila Kumari, daughter of Mundarika Chaudhary, Both residents of Village Harharpur Tola Mahuwadham, P.O. Mahuwadham, P.S. Bhawnathpur, District - Garhwa Petitioners Versus The State of Jharkhand Opp. Party ----- CORAM: HON'BLE MR. JUSTICE D. N. PATEL ----- For the Petitioners: M/s. A.K. Chaturvedi, Rajesh Kr Singh, Sourav Kumar For the Opp. Party: M/s. S.S. Prasad, Ravi Gupta, A.P.P. ----- 13/Dated:

28. h January, 2016 Per D.N. Patel, J.

1) Counsel for the petitioners argues out his case in detail.

2) The A.P.P. has submitted that the trial is going on before the learned trial Court i.e. the Court of Additional Sessions Judge-II, Garhwa in Sessions Trial No.194 of 2014. The accusation against these petitioners-accused persons are under Sections 364, 302, 201 to be read with Section 34 of the Indian Penal Code. The A.P.P. has further submitted that there are two Investigating Officers in this case and both of them have been examined as PW.1 and PW.2 out of the total 10

witnesses. The A.P.P. further submitted that PW.1 is an Investigating Officer, but, the name of this witness is never mentioned in the charge- sheet. PW.2 is another Investigating Officer and the complainant is to be examined as a last witness.

3) This is a very pathetic approach of the State in kidnapping and murder cases. Nobody is sincere in the State of Jharkhand for conviction. The police, the A.P.P. and the concerned Judge, who is conducting the trial, must be sensitive enough. Grave error has been committed by the trial Judge in examining firstly the Investigating Officers as prosecution witnesses and the complainant as a last witness.

4) It ought to have been kept in mind by the State that in the Police Academy at District Hazaribagh, such type of cases must be taught thoroughly well. Always, the prosecution witnesses should be examined first who are complainant, etc and lastly the Investigating Officer should -2- be examined, so that omissions and contradictions can be proved with the help of evidence of the Investigating Officer. The fault lies on the part of the Superintendents of Police who are IPS Officers. It is now high time for the Superintendents of Police of the State to have seminars and Skill Development Programmes for the Investigating Officers. Investigating Officer must be examined as a last witness, otherwise, omissions and contradictions will not be proved at all.

5) Perhaps, in this State, the police has forgotten the meaning of word 'omissions and contradictions'. Perhaps, they have forgotten that if there is cross-examination of the eyewitnesses or cross-examination of other star witnesses by defence lawyer, is asking several questions and answers of which has variation from their statements under Section 161 Cr.P.C. Such thing ought to be taken care of by the Investigating Officer when he is examined as a last witness, otherwise, whole work of the police will go in vain. Approach of the Police Officer in filing charge-sheet must be of conviction. It appears that grossest error has been committed; (a) by the police; (b) by the A.P.P.; (c) by the Judge who is conducting the Sessions Trial and who has allowed the Investigating Officer to be examined as PW.1 and PW.2; and, (d) the Superintendent of Police of the concerned district who has been a silent spectator in such matters.

6) It is now high time for the Home Department to initiate action against the erring Police Officers and A.P.P. The approach of Police and the A.P.P. is much below the average. Perhaps, everybody is working for acquittal. If this is the approach, perhaps, charge-sheet should not have been filed by the police. If anybody is helping the accused, he is bound to be arrayed as an accused.

7) The decision rendered by the Hon'ble Supreme Court in the case of State of Gujarat Vs. Kishan Bhai, etc in Criminal Appeal No.1485 of 2008 judgment dated 7th January, 2014 ought to be appreciated by all concerned including those who are the Police Officers, those who are the Trial Judges and those who are the A.P.P. especially paragraphs 20 and 21 thereof.

8) It appears that in the State of Jharkhand, the police as well as the -3- A.P.P. has not applied his mind at all especially in this case. This is revealed because the Investigating Officer, who is PW.1, is never mentioned as a witness in the charge-sheet. This is the approach of the State and this is their mental commitment for so-called conviction. Apparently, the police is working for acquittal, especially in this case.

9) The Judge, who is conducting the matter, ought not to have examined the Investigating Officers as PW.1 and PW.2. There is a gross error on his part also, because, the complainant is going to be examined as a last witness. Perhaps, omissions and contradictions of all other witnesses including the complainant will not be proved at all due to the examination of the police witness in first instance. It appears that the Judge is also equally ignorant, especially, how to prove omissions and contradictions. Always, Investigating Officer should be examined as a last witness, so that he can take care of, all the omissions and contradictions of other prosecution witnesses examined earlier.

10) Copy of this order will be sent by the Registrar General of this Court to, (a) Secretary, Home Department, State of Jharkhand; (b) Principal, Police Training College/Centre, Hazaribagh; (c) Director, Judicial Academy, Ranchi; (d) Superintendent of Police, Garhwa; (e) All the Principal District & Sessions Judges, State of Jharkhand so that they will percolate the copy of this order to the other Judges in their respective districts; (f) Judicial Commissioner, Ranchi so that he

may send copy of this order to the judges at Ranchi.

11) Having heard both sides and looking to the facts and circumstances of the case, it appears that out of 10 witnesses, except one, all have been examined. PW.1 and PW.2 are the Investigating Officers. PW.1 is examined just for the sake of examination, because, his name has never been mentioned as a witness in the charge-sheet. PW.3, PW.4, PW.7, PW.8 and PW.9 have turned hostile, as it is submitted by the A.P.P. (and not by the Police Officer who is present in the Court). As the other accused persons have also been enlarged on bail, I, therefore, direct that both the petitioners, named above, shall also be enlarged on bail upon -4- execution of bail bond of Rs.10,000/- each with two sureties of the like amount each, to the satisfaction of the trial Court / Court of Additional Sessions Judge-II, Garhwa in Sessions Trial No.194 of 2014, on the condition that they shall not tamper with the evidence of last witness who is to be examined, because others have turned hostile. Manoj/ (D. N. Patel, J)

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com