

Vinod Kumar Vs. State

Vinod Kumar Vs. State

SooperKanoon Citation : sooperkanoon.com/909840

Court : Delhi

Decided On : Feb-01-2011

Judge : Shiv Narayan Dhingra, J.

Acts : Indian Penal Code (IPC) - Sections 279, 304A; Code of Criminal Procedure (CrPC) (Cr.P.C) - Sections 251, 313

Appeal No. : CRL. Rev. P. 638 of 2010

Appellant : Vinod Kumar

Respondent : State

Advocate for Def. : Mr. Sunil Sharma, Adv.

Advocate for Pet/Ap. : Mr. Naipal Singh, Adv.

Judgement :

1. Whether reporters of local papers may be allowed to see the judgment?

2. To be referred to the reporter or not?

3. Whether judgment should be reported in Digest?

1. This revision petition has been preferred by the petitioner who has been convicted by the trial court under Section 279/304A IPC and whose appeal against conviction was dismissed by the first appellate court. At the time of admission of this revision, the counsel for the petitioner told the court that an imposter appeared

as PW-12, since Ram Kumar, brother of Vinod Kumar was produced as Vinod Kumar and the real Vinod Kumar never appeared before the trial court. The accused was having a counsel namely Mr. Ombir Singh, Advocate, representing him before the trial court and said Ombir Singh colluded with Ram Kumar and Addl. Public Prosecutor (Addl. PP) and he deliberately allowed Ram Kumar to be examined as Vinod Kumar. When accused wanted to examine real Vinod Kumar as a defence witness, the defence counsel did not take interest and closed the defence evidence.

2. The allegations made by the counsel during arguments on admission were serious since it was alleged that someone impersonated as Vinod Kumar with the help of counsel for the accused and Addl. PP. This court, therefore, considered that an FIR should have been got registered by the person who had alleged that he was impersonated in the Court. Vinod Kumar was present in the court at that time and he was directed to lodge a complaint to the trial court where the trial had taken place and a complaint to Bar Council of Delhi as well as Bar Council of India in respect of professional mis-conduct of the Advocate. An FIR was got registered by Vinod Kumar after this and investigation was done by P.S. Subzi Mandi. Vinod Kumar filed an affidavit before police of P.S. Subzi Mandi that he was made to sign certain English written documents by the counsel of the accused. He did not understand English. He was told that the documents were being got signed from him so that he may do pairvi of the case of the accused. He submitted that whatever was written in the document or in the complaint made to police, was not known to him. He was only made to sign. One Jeet Singh was examined as defence witness before the trial court. Jeet Singh was stated to be the conductor of the truck being driven by the accused. Jeet Singh had stated in the court that it was Rambir, who was driving the truck and accused Vinod Kumar was not driving the truck. Police traced Jeet Singh. He made statement to the police that he had never been a conductor on the truck. He had not even appeared in the court. He did not know the driver and he had nothing to do with the case. This implied that the person who was produced as Jeet Singh before the trial court was not the real Jeet Singh.

3. A perusal of trial court record would show that the accused was on bail during entire period. When PW-12, Vinod Kumar was examined in the court, he did not raise objection that Vinod Kumar was not the real Vinod Kumar or he was an imposter. When he received notice under Section 251 Cr. P.C. he did not state that he was not the real driver of the truck and he was put up falsely as driver of the truck by the Ramvir Singh, which is his stand now. Even in his statement under Section 313 Cr. P.C., the accused did not take stand that he was not the driver of the truck, Ram Kumar was the driver of the truck and he had been put up as driver of the truck to save Ram Kumar. The petitioner had not taken this plea in his appeal either. It is only after Ramvir Singh died during pendency of the Appeal that in the revision, this plea has been taken that accused was not the driver of the truck and Ramvir Singh was the truck driver and he was put up by Ramvir Singh as the driver of the truck to save his skin.

4. I consider that this case is an example how some Advocates either create false defence in the court or they become tool in the hands of their clients to make false representation in the court in order to gain sympathy of the Court. I consider that P.S. Subzi Mandi where FIR has been registered, shall thoroughly investigate the case and file a report to the concerned MM. The concerned MM shall take action as per law against those persons who either told lies before the trial court or made false allegations before this Court about impersonation.

5. The revision petition has no force and is hereby dismissed.

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