

Sukumar Ghosh Vs. State of Jharkhand

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Court : Jharkhand

Decided On : Jun-20-2013

Appellant : Sukumar Ghosh

Respondent : State of Jharkhand

Judgement :

In the High Court of Jharkhand at Ranchi Cr.M.P.No.346 of 2008 Sukumar GhoshPetitioner VERSUS State of Jharkhand
Opposite Party CORAM: HONBLE MR. JUSTICE R.R.PRASAD For the Petitioner : Mr.S.S.Choudhary For the State : A.P.P 8.20.6.13. A case was lodged by the informant-petitioner for commission of offence under Section 307 and other allied sections of the Indian Penal Code. On submission of the charge sheet, cognizance of the offences was taken against the accused persons, who were put on trial. During trial, private witnesses were examined by the prosecution but when A.P.P did not took any serious effort to secure attendance of the Investigating Officer and the Doctor, an application was filed before the court for removing the said A.P.P from the case so that new A.P.P be assigned with the case. However, no order could be passed .Thereupon, suddenly the court closed the evidence of the prosecution. Being aggrieved with that order, an application was filed under Section 311 of the Code of Criminal Procedure praying therein to summon the Doctor and the Investigating Office as their evidences would be necessary for just decision of the case but that application was dismissed, vide order dated 31.1.2008 by holding that much time has already been consumed still the prosecution has failed to examine all the witnesses. That order is under challenge.

Mr.Choudhary, learned counsel appearing for the petitioner submits that if the Investigating Officer and the Doctor in the case are not examined, there would be miscarriage of justice as their evidences would be necessary for just decision of the case. Keeping in view the facts and circumstances, I do find substance in the submission made on behalf of the petitioner that evidences of Doctor and Investigating Officer are quite necessary for just decision of the case. Accordingly, the order dated 31.1.2008 is hereby set aside and this application is allowed. Before parting with this order, it be stated that the trial court would take every endeavour to secure the attendance of the Doctor and the I.O as early as possible. Meanwhile, if it possible for the informant to get hold of the new address of the Doctor and the I.O, it be furnished so that they be summoned. (R.R.Prasad, J.)
ND/

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