

## **Criminal Appeal (S.J.) No. 1076 of 2006**

[Against the Judgment of conviction and Order of sentence dated 12.07.2006 passed by learned 3<sup>rd</sup> Additional District & Sessions Judge, Dumka (F.T.C.) in Sessions Case No. 126 of 2002].

Ramendra Kumar Singh, Son of Sri Kedar Nath Singh, resident of Village – Sewa, Police Station – Gidhor, District – Jamuyee (Bihar).

...                ...                **Appellant**  
Versus  
The State of Jharkhand     ...     ...     **Respondent**

.....  
For the Appellant              : Mr. Purnendu Kr. Jha, Advocate.  
For the Respondent              : Mr. Jitendra Pandey, A.P.P.

### **P R E S E N T**

### **HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA** **JUDGMENT**

**By Court:** Heard Mr. Purnendu Kumar Jha, learned counsel for the appellant and Mr. Jitendra Pandey, learned A.P.P. appearing for the State.

- 2.** Above named appellant has preferred this criminal appeal challenging the judgment of conviction and order of sentence dated 12.07.2006 passed by learned 3<sup>rd</sup> Additional District & Sessions Judge, Dumka (F.T.C.) in Sessions Case No. 126 of 2002, whereby and whereunder, the appellant has been held guilty for the offence under Section 411 of the I.P.C. and sentenced him to undergo R.I. for two years and to pay a fine of Rs. 5,000/- with default stipulation.

### **FACTUAL MATRIX**

- 3.** The factual matrix giving rise to this appeal in a narrow compass is that informant police officer heard rumour about dead body at Matha Kesho More. On this rumour, he proceeded for Matha Kesho More at Hasdiya-Deoghar Road at 14:50 hrs. along with S.I. Tarakant Thakur, where he found a dead body of unknown person lying in a Arhar field, who has been shot dead by firing on his back. He prepared inquest report of the dead body which appeared to him that some criminals shot him somewhere by fire on back and has thrown the dead body.
- 4.** On the basis of above information, FIR being Saraiyahat P.S. Case No. 126 of 1996 was registered for the offence under Section 302 of the I.P.C.
- 5.** After completion of investigation, the I.O. of the case has submitted charge sheet under Sections 396 and 412 of the I.P.C. After submission of charge sheet, the cognizance was taken and the case was committed to the court of Sessions, where the charge was framed under Sections 396 and 411 of the I.P.C., to which the appellant pleaded not guilty and claimed to be tried.
- 6.** In order to substantiate the charges leveled against accused person, altogether eight witnesses were

examined by the prosecution.

- 7.** Apart from oral evidence of ocular witnesses, following documentary evidences were also adduced.

Exhibit-1 : Signature of witness Surendra Prasad Verma on seizure list.

Exhibit-1 / 1 : Signature of witness Parmeshwar Mistry on seizure list.

Exhibit-2 : Signature of witness Tripurai Tiwari on seizure list.

Exhibit-2 / 1 : Signature of witness Nilam Rajak on seizure list.

Exhibit-3 : Post-mortem report.

Exhibit-4 : Written report / Fardbeyan.

Exhibit-5 : Endorsement on Written report.

Exhibit-6 : Seizure list.

Exhibit-6 / 1 : Seizure list.

Exhibit-6 / 2 : Seizure list.

Exhibit-6 / 3 : Seizure list.

- 8.** The case of defence is that appellant is an innocent person and has committed no offence at all. He has been falsely implicated in this case.

However, no oral or documentary evidence has been adduced by the defence.

- 9.** The learned trial court, after evaluating the evidence available on record, held the appellant guilty for the offence under Section 411 of the I.P.C. and sentenced as stated above.
- 10.** Being aggrieved with the impugned judgment of conviction and order of sentence dated 12.07.2006, this Criminal Appeal has been preferred on behalf of the appellant.
- 11.** Learned counsel for the appellant has submitted that appellant has been falsely implicated in this case only on the basis that the land over which the stolen iron rods were found and seized by the police was taken on rent by the present appellant from its lawful owner and at the time of preparation of seizure list, appellant was present and he has also signed over the seizure list. It is further submitted that there is no iota of evidence on record to prove that the land was taken on rent by the appellant from its owner and the Investigating Officer has also not interrogated with the owner of the land. I.O. has not been examined as witness in this case. Not a single chit of paper or oral evidence has been adduced by the prosecution to

prove relation of landlord and tenant in respect of the land over which the stolen property was found, collected and stored. The appellant is a practicing lawyer and is a reputed person and has no concern with the alleged offence. The learned trial court has held the appellant guilty for the offence under Section 411 of the I.P.C. without any legal and cogent evidence to prove the ingredients of the said offence against the appellant. Therefore, the impugned judgment of conviction and order of sentence of the appellant is liable to be set aside by allowing this appeal.

- 12.** On the other hand, learned APP has opposed the aforesaid contentions raised on behalf of the appellant and submitted that the appellant has signed over the seizure list in presence of witnesses and never objected that the land was not belonging to him on the basis of rent. Therefore, there is no illegality or infirmity in the judgment, calling for any interference in this appeal, which is fit to be dismissed.
- 13.** I have gone through the record of the case along with impugned judgment and order in the light of contentions raised on behalf of both the sides. It appears that FIR was registered for the offence under Section 302 against unknown persons.

- 14.** It further transpired that in course of investigation, stolen iron rods were seized by police in presence of witnesses P.Ws. 1, 2, 3 & 4, who have not proved the factum of seizure list of iron rod, rather proved their signature only on the seizure list.
- 15.** From over all appraisal of evidence of witnesses, it appears that Truck No. BHG-8371 was intercepted by some miscreants loaded with iron rod and Khalasi was shot dead and the iron rod was stolen by the accused persons. After investigation, charge sheet was submitted against the present appellant for the offence under Section 396 and 412 of the I.P.C. It further transpires that appellant was acquitted from the charges for offence under Section 396 of the I.P.C. and instead of Section 412 I.P.C. he was held guilty for the offence under Section 411 I.P.C. only on the basis of that in course of investigation, it was found that the stolen iron rods were seized from the place, which was rented to the appellant. From going through the entire evidence available on record, I find no iota of evidence which may prove that the land over which the stolen articles were lying was ever let out to the present appellant or he had any dominion over the said property in any manner even the owner

of the land is not examined in this case to prove the said fact. Therefore, it appears that appellant has been convicted in this case only on the basis of suspicion without any cogent and reliable evidence. Hence, I am constrained to set aside the conviction and sentence under Section 411 of the I.P.C.

- 16.** Therefore, the impugned judgment of conviction and order of sentence dated 12.07.2006 passed by learned 3<sup>rd</sup> Additional District & Sessions Judge, Dumka (F.T.C.) in Sessions Case No. 126 of 2002 is hereby set aside.
- 17.** Accordingly, this appeal is allowed.
- 18.** The appellant is on bail, as such, he is discharged from liability of bail bond and sureties shall also be discharged
- 19.** Let a copy of this judgment along with trial court record be sent back to the court concerned for information and needful.

**(Pradeep Kumar Srivastava, J.)**

Jharkhand High Court, Ranchi  
Dated : 19<sup>th</sup> November, 2024  
Sunil /**N.A.F.R.**