

02.12.2021

Court No.35
Item No.11
(Disposed of)

Akd

CRA 562 of 2003

***Chanchal Banerjee & Anr.
Vs.
The State of West Bengal***

**Mr. Binay Kumar Panda,
Ms. Puspita Saha.**

... for the State.

None appears for the appellants, Chanchal Banerjee and Smt. Gita Banerjee.

It appears that despite several opportunities given to the appellants, they neither turned up before this Court in person nor through any Lawyer on any of the dates fixed for hearing. From their conduct, I feel that the appellants are not interested to proceed with the instant appeal.

Mr. Binay Kumar Panda, learned Advocate, appearing for the State submits that the Court may pass necessary order or direction as the Court deems just after going through the case records.

This appeal has been preferred by the appellants, Chanchal Banerjee and Smt. Gita Banerjee, being aggrieved and dissatisfied with the judgement and order of conviction and sentence passed by the learned Additional Sessions Judge, Hooghly in Criminal Appeal No. 18 of 1998.

By the impugned judgement the learned First Appellate Court confirmed the judgement and order of conviction passed by the learned Sub-Divisional Judicial Magistrate, Chandernagore in G. R. Case No. 740 of 1985.

The prosecution case, in brief, may be stated as follows:

Anadi Mukherjee, husband of the informant, Smt. Bani Mukherjee, obtained an eviction decree against the appellants. He put the decree in execution. The decretal premises was handed over to him with the help of the process server and police personnel. The informant and her husband kept some household articles in the house of which they got possession. But the appellants, on 30th July, 1985 at about 12-00 noon

broke open the locks of the premises in question and entered into the same and ransacked the properties of the informant.

Learned Sub-Divisional Judicial Magistrate, Chandernagore, on appreciation of the evidence on record held the appellants guilty of commission of offence punishable under Section 427 of the Indian Penal Code. However, the benefit of Probation of Offenders Act was extended to them. By the same order the learned Sub-Divisional Judicial Magistrate directed the Officer-in-Charge of Haripal Police Station to restore the possession of the disputed premises to the informant and her husband.

As quoted above, the learned Additional Sessions Judge, Hooghly, by the impugned order affirmed the judgement and order of conviction passed by the learned Trial Court.

I have minutely read the judgement and order passed by the learned First Appellate Court in Criminal Appeal No. 18 of 1998. I have gone through the evidence on record.

I find that the learned First Appellate Court observed that the learned Trial Court passed the judgement and order of conviction on proper appreciation of the evidence and applying the relevant legal principles. What it appears to me, the judgement rendered by the learned First Appellate Court does not suffer from any illegality or irregularity or perversity.

In view of the above, I find no reason or justification to interfere with the judgement and the order of the learned First Appellate Court.

In the result, the appeal merits dismissal. Accordingly, the appeal is dismissed on merit.

The judgement passed by the learned Additional Sessions Judge, Hooghly, on 19th November, 2003 in Criminal Appeal No. 18 of 1998 affirming the judgement of the order of conviction of the learned Sub-Divisional Judicial Magistrate, Chandernagore, is confirmed.

The learned Sub-Divisional Judicial Magistrate, now designated as learned Additional Chief Judicial Magistrate, Chandernagore, Hooghly, is directed to see whether the

appellants have complied with the directions passed by the then learned Sub-Divisional Judicial Magistrate or not.

If it is found that the appellants have complied with the directions passed by the learned Trial Judge, in that event the appellants shall be deemed to have been discharged from this case after serving out the sentence.

If the appellants have not complied with the directions passed by the learned Trial Judge, the learned Additional Chief Judicial Magistrate, Chandernagore, shall pass necessary directions or order so that the appellants serve out the sentence under the Probation of Offenders Act.

The appeal is disposed of.

Let the Lower Court Records be sent down along with a copy of this order to the learned Trial Court forthwith for information and compliance.

(Rabindranath Samanta, J.)