

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.259 of 2023

Arising Out of PS. Case No.-66 Year-2003 Thana- NAWADA MUFFASIL District- Nawada

Uday Singh, Son of Mishri Singh, Resident of Village- Kendua, P.S.-
Mufassil, District- Nawada

... .. Appellant

Versus

1. The State of Bihar
2. Ramashish Singh Son of Late Shital Singh Resident of Village- Kendua, P.S.- Mufassil, District- Nawada
3. Kishori Singh Son of Awadesh Singh Resident of Village- Kendua, P.S.- Mufassil, District- Nawada
4. Amresh Singh Son of Awadesh Singh Resident of Village- Kendua, P.S.- Mufassil, District- Nawada
5. Ram Padarath Singh Son of Late Dashrath Singh Resident of Village- Kendua, P.S.- Mufassil, District- Nawada
6. Shaligram Singh Son of Dwarika Singh Resident of Village- Kendua, P.S.- Mufassil, District- Nawada
7. Hari Nandan Singh Son of Shital Singh Resident of Village- Kendua, P.S.- Mufassil, District- Nawada
8. Bhushan Singh Son of Dwarika Singh Resident of Village- Kendua, P.S.- Mufassil, District- Nawada

... .. Respondents

Appearance :

For the Appellant/s : Mr.Sanjay Kumar Sinha, Advocate
For the Respondent/s : Mr.Abhay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 03-01-2024

Re.: I.A. No. 01 of 2023

The Interlocutory application has been filed for
condoning the delay in filing the present appeal.

2. For the Reasons stated in the application, the delay
in filing the present appeal is condoned.

3. I.A. No. 01 of 2023 stands allowed.

Re.: Cr. Appeal (SJ) No. 259 of 2023



4. Heard learned counsel appearing on behalf of the appellant and learned counsel for the respondents.

5. The present criminal appeal has been filed against the order dated 20.02.2020 passed by learned Additional Sessions Judge-XI, Nawada in connection with Sessions Trial No. 283 of 2015 arising out of Nawada Muffasil P.S. Case No. 66/2003 by which learned court has disposed of the application filed by the appellant under Section 340 of the Code of Criminal Procedure, 1973 (in short the “Cr.P.C.”) vide order dated 22.06.2019 for initiation of proceeding against opposite party nos. 2 to 8 for filing representation under Section 317 of the Cr.P.C. in which attendance on behalf of one accused person who had died earlier in the year 2015.

6. Learned counsel for the appellant submits that the appellant is aggrieved vide order dated 20.02.2020 passed by learned Additional Sessions Judge – XI, Nawada which are being reproduced hereunder for a ready reference:

“20.02.2020

Record put up for order on the petition dated 22.06.2019 of Informant. This petition is filed by informant praying to initiate proceeding u/s 340 Cr.P.C. against seven accused primarily for giving representation u/s 317 Cr.P.C. on behalf of one dead accused who had died in 2015. It is argued by Learned counsel for informant that it was done intentionally and deliberately to secure closure of evidence.

Learned counsel for accused persons argued that it is true that accused Ranjit Singh died but due to



father of deceased and pairvikar being different information could not be given in confusion. It was not intentional and no benefit could have been gained by other accused nor any harm was caused to informant.

Heard Learned counsel for both the parties.

Having considered the facts in totality no unlawful gain or loss is caused to any party. Considering that the act was not intentional and was due to confusion. This petition is disposed off with warning to the accused persons to be attentive in future.

Proceeding against dead accused Ranjit Singh is dropped.

Put up on 27.02.2020 for evidence.”

7. Learned counsel has also referred Section 340 of the Cr.P.C. which reads as under:

“340. Procedure in cases mentioned in section 195.

- (1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub- section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,-

- (a) record a finding to that effect;
- (b) make a complaint thereof in writing;
- (c) send it to a Magistrate of the first class having jurisdiction;
- (d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non- bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and
- (e) bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a Court by sub- section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub- section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub- section (4) of section 195.



(3) A complaint made under this section shall be signed,-

(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf.

(4) In this section, " Court" has the same meaning as in section 195."

8. Having regard to the submission made on behalf of the appellant and on perusal of the records, *prima-facie*, it appears that there is no co-relation between filing of attendance under Section 317 of the Cr.P.C. and to that of delay to ensure closure of evidence. Hence, there is no need to interfere in the finding of learned court below.

9. The appeal is dismissed.

10. However, as the matter is of the year 2003, the learned trial court is directed to dispose of the matter at the earliest.

(Chandra Shekhar Jha, J.)

Rajeev/-

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