SUPREME COURT OF INDIA

Sunil @ Balo Das

Vs.

Rajesh Das

Criminal Appeal No.356OF 2008 arising out of SLP (CRL) No. 2006/2007

(Dr. Arijit Pasayat and P. Sathasivam)

21/02/2008

JUDGMENT

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in this appeal is to the order passed by a learned Single Judge of Jharkhand High Court setting aside the order of acquittal recorded by the trial Court in favour of the present appellants by allowing the revision filed by respondent No.1-Rajesh (hereinafter referred to as the 'informant'). Learned counsel for the appellants submitted that the approach of the High Court is clearly erroneous. No reasons have been indicated to show that there was any infirmity in the trial Court's judgment. In fact, according to him, the trial Court's judgment was a very detailed one and ample reasons were indicated. The High Court without even pointing out as to what infirmity existed, in a mechanical manner directed the matter the matter to be re-heard. Abrupt conclusion was arrived at that the trial Court had not appreciated the evidence on record in its right perspective and by mis-appropriation of evidence, directed acquittal. It is submitted that it has not been indicated as to how

the evidence has not been appreciated in the right perspective and/or how there was mis-appropriation of evidence. It is pointed out that the revision was not maintainable at the instance of the complainant. The exercise of revisional jurisdiction has to be within limited parameters. Unless there are glaring defects in the procedure or manifest errors of law leading to great mis-carriage of justice, there is no scope for interference. It is pointed out that the alleged occurrence took place on 20.11.1994 and a complaint was filed after about 13 months i.e. on 11.12.1995.

3. Learned counsel for respondent No.1 submitted that though the High Court has not referred to the evidence in detail, the conclusions of the trial Court are sufficient to show that the appellants were guilty of alleged offence.

4. The impugned order of the High Court reads as follows:

"Heard.

This revision has been filed by the informant against the impugned Judgment by which, the accused persons were acquitted from the charges under Section 364, 366A, 368 and 120B of the Indian Penal Code.

It appears from the impugned Judgment that though the trial Court held that the minor girl Sarita Kumari was kidnapped from the lawful guardianship of her father but by discarding the evidence of P.Ws. on the ground that they are hearsay and further rejecting the evidence of the prosecutrix Sarita Kumari on the ground that the same was contradictory to her statement made under Section 164 Cr.P.C., acquitted the accused persons holding that the prosecution failed to produce any reliable evidence.

In my view, the trial Court has not appreciated the evidence on record in its right perspective and by misappreciation of evidence has acquitted the accused persons.

Accordingly, without giving any specific finding on the evidence on record, the matter is being remitted to the Trial Court by setting aside the impugned order with a direction to the Trial Court to consider the materials and evidence on record afresh in its right perspective and pass a fresh Judgment in accordance with law after hearing the parties on the basis of the materials already on record within a period of eight weeks from the date of receipt of a copy of this order."

5. A bare reading of the impugned order shows that no reason has been indicated and/or there has been no analysis of the evidence recorded. The abrupt conclusions arrived at show non application of mind.

6. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order indicative of an application of its mind. The absence of reasons has rendered the High Court's judgment not sustainable.

7. Even in respect of administrative orders Lord Denning M.R. in Breen v. Amalgamated Engineering Union (1971 (1) All E.R. 1148) observed "The giving of reasons is one of the fundamentals of good administration". In Alexander Machinery (Dudley) Ltd. v. Crabtree (1974 LCR 120) it was observed: "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking order. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance.

8. Above being the position, the impugned order is clearly unsustainable and is set aside. The matter is remitted to the High Court to dispose of the revision petition afresh in accordance with law.

9. The appeal is allowed.