

Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.A. No. 2 of 2021

Date of order: 20.06.2022

Tengsal D. Sangma

vs.

State of Meghalaya & ors.

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellant : Mr. H.R. Nath, Adv. with
Ms. B. Sun, Adv.
Mr. J.H. Mawphniang, Adv.

For the Respondents : Mr. K. Khan, Sr. GA with
Mr. S. Sengupta, Addl. Sr. GA

- i) Whether approved for reporting in Law journals etc.: Yes/No
- ii) Whether approved for publication in press: Yes/No

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

The appeal is directed against a judgment of conviction under Section 302 of the Indian Penal Code, 1860 dated October 4, 2017 and the order of punishment of December 11, 2017.

2. The appellant has been sentenced to imprisonment for life. The trial was conducted by the District Council Court in Tura.

3. It is fairly submitted on behalf of the State that the perfunctory manner in which the matter was conducted by the trial court at the stage

of Section 313 of the Code of Criminal Procedure, 1973, the appellate court may need to look into such aspect of the matter. The appellant also submits that a fair opportunity was not afforded to the appellant to deal with the evidence apparently against him.

4. Section 313 of the Code conceives of an opportunity being extended to the appellant in every trial for the purpose of enabling the appellant personally to explain any circumstances appearing in the evidence against him. Though no oath can be administered to the appellant in course of his examination by the trial court under Section 313 of the Code and the appellant, as a consequence, does not render himself liable to punishment by refusing to answer the questions or giving false answers thereto, the replies to the specific questions may be taken into consideration by the trial court while considering whether the appellant had committed the offence and the circumstances pertaining thereto.

5. In practice, the key parts of the evidence of every prosecution witness who has testified are put to the appellant for the appellant to deal with the same, if he so chooses. An omnibus offer by the trial court for the appellant to say whatever he pleases would not suffice for the exercise that the trial court is required to perform. It is the duty of the trial court

to bring to the specific attention of the appellant the material that may be considered relevant in finding the appellant guilty. Thus, eyewitness accounts, if any, need to be summarised, without the key details therein being skipped, for the appellant to be made aware of the grounds that may lead to his conviction. It would not do for the trial court to inform the appellant that the evidence had been adduced in full and call upon the appellant to offer his comments on the evidence.

6. In the present case, the records do not reveal that the exercise was appropriately conducted by the trial court. The recording of the statement of the appellant under Section 313 of the Code is without any questions being put to the appellant and without the material evidence that would weigh against the appellant being specifically pointed out to the appellant.

7. In this connection, the State has referred to a judgment reported at (2015) 1 SCC 496 (*Nar Singh v. State of Haryana*), particularly the discussion at paragraphs 27 to 32 of the report, as to the duties and obligations of both the trial court and the appellate court under Section 313 of the Code and when the same is not appropriately conducted by the trial court, respectively.

8. Accordingly, the judgment of conviction dated October 4, 2017 is set aside along with the order of punishment of December 11, 2017. The matter is remanded to the trial court for fresh conduct of the trial from the stage under Section 313 of the Code and for the necessary exercise under such provision being appropriately done.

9. Since the appellant has already undergone detention for over ten years, it is hoped that the District Council Court at Tura would make it convenient to conclude the trial within a month of the receipt of a copy of this order. The trial court will allow arguments and will be obliged to indicate fresh reasons in support of its conclusion without being influenced by the judgment of conviction that has been set aside by this order.

10. Accordingly, CrI. A. No. 2 of 2021 is disposed of.

11. Let an authenticated copy of this judgment and order be immediately made available to the appellant free of cost.

(W. Diengdoh)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
20.06.2022
"Sylvana PS"