BLOGS

Important Judgement for CLAT 2024 : Dhananjay Rai v. State of Bihar

Indrasish Majumder · 06 Mar 2023

Date – 14th July 2022 Court: The Supreme Court of India Bench: Justices Abhay S. Oka and MM Sundresh

Facts of the case

In this case, the accused was convicted by the Sessions Court under Sections 302 and 120B of the Penal Code (IPC) and Section 27(1) of the Arms Act, 1959. An appeal was preferred by the accused before the High Court of Patna. He was later declared missing and thereafter as absconding. A Division Bench of the Patna High Court dismissed the appeal against the conviction of the accused without adverting to the merits of the appeal on the ground that the accused was absconding and had failed to cooperate with the proceedings.

Issue

The question before the court was whether an appeal against conviction without regard to the merits of the case can be dismissed solely on the ground that the accused was absconding.

Judgement of the High Court

The High Court opined that the remedy of an appeal is a valuable right and that the appellant forfeited his right to prefer an appeal the moment he escaped from custody and flagrantly abused the legal process by fleeing. Such a deliberate act on the part of the appellant to defy the judiciary amounts to defiance of the criminal administration of justice.

Judgement of the Supreme Court

The Supreme Court observed that the anguish expressed by the High Court about the brazen action of the appellant in absconding and defeating the administration of justice can be

sympathised with. However, that is no ground to dismiss an appeal against conviction, which was already admitted for a final hearing, for non-prosecution without adverting to merits.

The Supreme Court, while setting aside the judgement of the High Court, held that an appeal against conviction filed by an accused under Sub-Section (2) of Section 374 of the Code of Criminal Procedure, 1973, cannot be dismissed on the ground that the accused is absconding. The Apex Court further remanded the matter to the High Court for consideration on the merits, requesting that the appeal be disposed of as expeditiously as possible, preferably within a period of six months. The Apex Court further held that “if the appeal could not be heard within a reasonable time, in that event, the appellant will have to be granted the liberty to apply for suspension of sentence.”

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