

INDRAJEET YADAV

v.

SANTOSH SINGH AND ANR.

(Criminal Appeal No. 577 of 2022)

APRIL 19, 2022

[M.R SHAH AND B.V NAGARATHNA, JJ.]

Practice and procedure – final order louthokhibada sandokna takpa amadi maramsing piraba judgement yaodaba, thouwong ado yaningdaba utli – High Court na accused adugi appeal ado yaraduna order adugi operative portion khaktamak louthokkhi amasung trial court ki judgement amadi conviction order adubu chatnahankhide amadi jail da leiriba accused adubu thadoknaba haikhi, adubu sandokna takpa amadi maramsing piraba judgement adudi tha manga mukki matungda louthorakkhi – Appeal da court asina hairi : Supreme Court na yamna kuiraba matam 1984 dagi hanjin hanjin toudanabagi hairabasu judgement gi operative portion khaktamak louthokpagi thawong asi adumak chatthaduna lakli haibadi sandoknatakpa amadi maramsing piraba judgement yaodana – Asigumba sandokna takpa amadi maramsing piraba judgement yaodrigeida final order laothokpagi practice asi lepkadabani amadi touhalloidabani – Case asida, Sandokna takpa amadi maramsing piraba judgement asi tha manga mukki matungda High Court na louthokki amadi upload tourakkhi – High Court na pikhiba challenge twraklaba judgement amadi order asi chatnahandre –Appeal asi High Court ta amuk hanna wayelnaba thare, nouna amuk law amadi merit ki matung inna decision lounaba – IPC – s.302 r/w s.34

Balaji Baliram Mupade & Anr. v. The State of Maharashtra [Supreme Court na Civil Appeal No. 3564 of 2020 ki dated 29-10-2020 da pikhiba decision]; State of Punjab & Ors. v. Jagdev Singh Talwandi, (1984) 1 SCC 596: [1984] 2 SCR 50 amasung Anil Rai v. State of Bihar, (2001) 7 SCC 318: [2001] 1 Suppl. SCR 298-referred twee.

Case Law Reference

[1984] 2 SCR 50	referred twriba	Para 3.1
[2001] 1 Suppl. SCR 298	referred twriba	Para 3.1

CRIMINAL APPELATE JURISDICTION : Criminal Appeal No. 577 of 2022.

Dated 30.03.2019 da High Court of Judicature at Allahabad na Criminal Appeal No. 1083 of 2012 ta pikhiba judgment amadi order dagi

Loinana

Criminal Appeal No. 578 of 2022.

Divyesh Pratap Singh, Shashank Singh, Mohd. Asad Khan, Anupam Chaudhary, Advs.na Appellant gi oeiri.

Raj kumar Chauhan, Ms. Sangita Chauhan, Chandan K. Pandey, Devendra Kumar Shukla, Ms. Shristi Singh, Advs na Respondents gi oeiri.

Court asigi Judgement asi pikhibana

M. R. SHAH, J.

1.High Court of Judicature at Allahabad na dated 30.03.2019 da pikhiba hujik challenge twrakliba Crminal Appeal No.1083 of 2012 amasung Criminal appeal No. 1178 Of 2012 ki judgemnet amadi order asida nungaitaba amadi pendaba fouee. Hairiba Judgement amadi order asina original accused ki appeal sing asi yahankhi amadi Indian Penal Code (samjillaga haibada IPC) ki Section 302 read with Section 34 ki charge singdagi maral leitre haina louthokki, Original complainant/informant na hairiba wafam sing asi case asigi appeal tharakpada hujikki case asida palli.

2. Eikhoinna Party khuding,makki leplibana learned counsel singgi wafam tare.

3.Appellant – original complainant/informant gi meikaidagi leplibana learned counsel amasung State ki maikaidagi leplibana learned counsel na akhoigi pukning chingsilladuna thamkhiba wapham di case asigi argument sing 30.03.2019 da loisilkhi amasung numit asimaktada hairiba appeal do yakhibaga loinana order adugi operative portion ado loathokki. Learned Trial Court ki order ado chatnahankhide amadi jail da leiriba accused ado thadoknaba khanghankhi adubu sandokna takpa amadi marampiraba judgement adudi tha manga mukki matungda louthorakkhi.

3.1 Appellant – original complainant/informant gi meikaidagi leplibana learned counsel na yamna kanna handakta nouna Court asigi **Civil Appeal No. 3564 of 2020** oeiriba **Balaji Baliram Mupade & Anr. versus The State of Maharastra** case asigi mateng loura, case asida sandokna

INDRAJEET YADAV V. SANTOSH SINGH AND ANR. [M.R. SHAH. J.]

takpa amadi maramsing piraba judgement yaodana final order laothokpa asi yaningdaba phonmgdokli. Hairiba Case asida Hon'ble Court na Court asigi case **State of Punjab & Ors. versus Jagdev Singh Talwandi, (1984) 1 SCC 596** amadi attopa decision sing case asigi judgement gi para 4 da refer twriba case sing ado khannakhi. Court asina macha khaina yamna kupna **Anil Rai versus State of Bihar, (2001) 7 SCC 318** hairiba case asigi decision su khannakhi, case asida Court asina Judgements amadi Orders sing laothokpagi matangda guideline issue su twkhi.

4. Balaji Baliram Mupade (supra) amasung court asigi hannagi case **Jagdev Singh Talwandi (supra)** da pikhiba decision adugi makhada lakpa law sing ado yenglaga amadi case asigi facts sing asisu nakal amada neinabada, High Court na pass twkhiba challenge twrakliba judgement amasung order asi chatnafam thoktre.

4.1 Balaji Baliram Mupade (supra) case asigi paragraph 1 dagi 4 foubada hairiba amadi thamliba waphamdi makhada piri:

“1. Judicial Discipline leinabagidamak judgment asi yamna thuna piba darker oei-Court asinasu hanjin hanjin haidunasu lakli. Resultdi khanglaga result adu lakpagi maram sing ado khnagdaba taragadi problem henna oeirakee. Masina Maram oeiduna aggrieved(pendriba) party amana makha taba judicial redressal ama mathak thangba judicial tier amada chattuna thinaba khudongchaba ado phanghande.

2. Court asigi Constitution Bench amana matam kuirabagi mamangda 1983 da State of Punjab & Ors. v. Jagdev Singh Talwandi – 1984 (1) SCC 596 da High Courts singda chatthariba thouwong amana thengnahalliba awaba aruba singgi matangda High Court singgi pukning chingsinkhi, thouwong adudi sandokna takpa amadi maramsing piba judgement yaodana final order louthokpa asini. Mari leinaba paragraph ado makhada piri:

“30. Eikhoina matang asigi khudong chaba louraga phongdokningbadi High courts singda chatthariba thouwong haibadi sandokna takpa amadi maramsing piraba judgement yaodana final order louthokpa asina thengnahalliba awaba singduni. High Court na piningliba final order ado sandokna takpa amadi maramsing piraba judgement ado semba loijildri phoubadi louthoktabana phagani. Khudam oeina hairabada High Court na final order ama louthokle sandokna taklaba amadi maramsing piraba judgement yaodana madudi yum ama thugaigadabani, natraga angang amagi custody asi mama natraga mapa amada pigadabani haina natraga yamna serious oeiraba charge singda maral leire hairiba mi ama maral leire haina thadoklaba, natraga statute ama unconstitutional oei hairaba natraga, khudakki oeina detenu amabu detention dagi

thadoknaba haiba. Asigumba orders sing ado piba gi pandam asi yamna thuna order sing ado chatnahallnaba oeiba taragadi, pandam asibu pendriba party amana Court asida Special Leave Petition ama High Court na tariba order adugi mayokta tharaga pandam ado phanghande. Thouwong asina Court asibu yamna aruba phibam amada thammi madudi, High Court na piba maramsing ado yaodana Court asina echam chamba order ama chatnahalbada yamna aruba oei. Maram asina touda yadaba oeina High Court na takhiba order ado sandokna takpa amadi maramsing piraba judgment yaodrifoubadi stay touba tarakii.”

3. Makhatana, Matam kuirabagi tungda decade anigi matungda, Court asina Anil Rai v. State of Bihar – 2001 (7) SCC 318 case asida matang-matam oeire khalduna Judgemnet louthokpagi matangda guideline khara pikhi, Court asigi mandate makhada mari leinaba khudingmakna guideline asi engani haina thajaba thamkhi. Directions ado state ta piba natrabadi amuk hanna pidrasabsu yare, judgement asi argument sing loisilkraba tha ani gi manungda pirakkani thajanei, tha ahum helkhrabadi party amana hekta judgement nganna pibinaba application thaba yai. Karigumba, maram amana hekta, Judgemnet asi tha taruk suraba phoubada louthoraktrabadi party amana hekta High Court adugi Chief Justice ta anouba Bench ama assigned toubinaba amadi nouna argument sing tanaba haijanaba application thabagi hak piri.

4. Mathakta pankhriba principle sing asi yamna kanna hanjin hanjin Court asina matang kayada haikhre khudam oeina Zahira Habibulla H. Sheikh & Ors. v. State of Gujarat & Ors. [AIR 2004 SC 3467 paras 80-82], Mangat Ram v. State of Haryana [(2008) 7 SCC 96 paras 5-10] amasung ekui kuidrigei Ajay Singh & Anr. Etc. v. State of Chhattisgarh & Anr.- AIR 2017 SC 310 asini.”

4.2 Akanba observation sing Court asina matam kuinagi mamang 1984 dagi amadi madugi matungdagi hanjin hanjinna hairabasu sandokna takpa amadi maramsing piraba judgment yaodana judgement adugi operative part khaktamak louthoklaba matung matam khara leiraga sandokna takpa amadi maramsing piiba judgment louthokpagi thouwong asi hujiksu touri. Asigumba thouwong haidi final order louthokpada sandokna takpa amadi maramsing piiba judgement yaodaba asi lepkadabani amadi pukning thougatloidabani.

4.3 khudakki oeiba reference ti hujikki case asida takhiba order asina masa matomta haijari. High Court na argument sing 30.03.2019 da takhi amadi numit adumaktada makhada piriba order asi pass toukhi .

“Criminal Appeal No. 1083 of 2012 ki appellant gi learned counsel oeiriba Sri V.M. Zaidi Senior Advocate assist twbana Sri M.J. Aktar gi argument sing tare amasung Criminal Appeal

INDRAJEET YADAV V. SANTOSH SINGH AND ANR.
[M.R. SHAH. J.]

No.1178 of 2012 ki appellant gi learned counsel oeiriba Sri Sunil Kumar ,State ki learned A.G.A Sri Upadhyay amasung informant gi learned counsel oeiriba Sri P.C. Srisvastava su tare.

Eikhoina operative order ado hujik mapham sida pire.Order asigi maram sing adudi konna pigani.

Appeal animak yare. Dated 24.02.2012 ta Additional District and Session Judge, T.E.C.P Court No.1, Azamgarh in S.T No.151 of 2009 na pass twkhiba challenge twrakliba order amasung judgement asi chatna handre.

Criminal Appeal No.1083 of 2012 ki Appellant oeiriba Santosh Singh asi hujik bail da lei. Mahak surrender twdaba yare. Mahakki bail bond kakthatle amasung mahakki sureties sing discharge twre.

Criminal Appeal No.1178 of 2012 ki appellant oeiriba Avdhesh Singh @ Chhunnu Singh asi hujik jail da lei. Mahak asi thadokaadadani karigumba attopa case sing leiramdraba taragadi.

Appellant animak na Cr.P.C. gi Section 437 gi provision sing asi inngadabani ngasidagi tha amagi manungda.

Order asina kanagumba amatada paisa pinaba haide.”

4.4 Proceeding gi record ki matung inna sandokna taklaba amadi maramsing piraba judgment asi tha mangagi matungda louthokkhi amadi upload tourakhi.Maram asina,Court asigi mathakta pankhiba decision singna tarakhiba law sing adu panjillaba matung, Challenge twakliba High Court ki order amasung judgement asi chatna handre makha tana case asigi merit ta yengdabata nattana meikei amatagi favour da merit ki wapham amata phongdoktre. Eikhoina appeal asi nouna amuk enou nouna makok tagi hounaba, law amadi masagi merit ki matung inna High Court na decide tounaba High Court ta remand twre . Eikhoina High Court ta request twri madudi appeal asi yariba makhei yam thuna decide amadi dispose twduna loijilnaba amadi order asi phangba numittagi tha tarukki manungda loijilba pammi. Maraksida, Appeal asina High Court ta wayel chattharingei matamda accused asina surrender twbagi mathou tade amasung makhoising ado bail da thadoklaga leirba amagum treat twgadami amadi bail da adumak thadoklaga thamgadabani hairiba asigi makha tarakpadi High Court ta leiriba appeal adugi outcome gi makha pongani. Karigumba Court na Conviction da adumak taraklagadi, accused sing ado judgement louthokhiba numit adudagi hapta anigi manungda surrender twgadabani.

Hujik lakliba appeal aside mathakta pankhriba hiram asifougi oeinadi court na yare. Case asigi proceeding singgi record sing Registry na High Court ta hallaga thakhro.

Appeal allowed.