
(2007) 11 PAT CK 0013

In the Patna High Court

Case No : Criminal Miscellaneous No. 3693 of 2005

Atma Ram

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 07-11-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3)
Penal Code, 1860 (IPC) — Section 419, 420, 468

Citation : (2009) 1 PLJR 276

Hon'ble Judges : Abhijit Sinha, J

Bench : Single Bench

Advocate : Rajendra Prasad, for the Appellant; Jharkhandi Upadhyay, for the Respondent

Final Decision : Allowed

Judgement

Abhijit Sinha, J.—The complainant of Complaint/Protest Petition No. C-1829 of 2000 (arising out of Gopalganj P.S. No. 408 of 2000) is aggrieved by order dated 22.11.2004 passed by Sri S.P. Sharma, 1st Additional Sessions Judge, Gopalganj in Criminal Revision No. 388 of 2003 by which he has allowed the revision application and set aside the order dated 11.1.2002 passed by Sri S.K. Singh, Judicial Magistrate 1st Class, Gopalganj in Tr. No. 1116 of 2002. It appears that the petitioner had filed the complaint petition bearing No. 1829 of 2000 which was sent to the concerned police station u/s 156(3) Cr.P.C. It further appears that being dissatisfied with investigation work the complainant filed a Protest-cum-Complaint Petition apprehending the collusive approach of the Investigating Officer which was kept on record. It further appears that the Police after investigation submitted a final form and on the basis of the Protest Petition the court examined the complainant on S.A. and recorded the evidence of three witnesses and on the materials available on the record took cognizance for offences under Sections 419, 420 and 468 I.P.C. against Opposite Party Nos. 2 to 5 herein.

2. It further appears that the Opposite Party Nos. 2 to 5 herein preferred Criminal Revision No. 384 of 2002 before the learned Sessions Judge, Gopalganj which was dismissed vide order dated 29.7.2003 for non-prosecution as notwithstanding having filed the Haziri on that day the learned counsel for the petitioners failed to turn up to argue the case. It further appears that the Opposite Party Nos. 2 to 5 again filed another Criminal Revision Application bearing No. 388 of 2003 which was allowed by the impugned order. However, from the impugned order it does not appear that the learned 1st Additional Sessions Judge while allowing Criminal Revision No. 388 of 2003 had considered the fact that the earlier Revision preferred by the same petitioners had been dismissed. It is also not clear whether the fact of dismissal of the earlier Criminal Revision No. 384 of 2002 was brought to the notice of the court hearing Criminal Revision No. 388 of 2003 or the fact of the dismissal had been suppressed by the petitioners either in their petition or in course of hearing.

3. Due regard being had to the facts and the circumstances of the case, the impugned order dated 22.11.2004 passed by Sri Surendra Prasad Sharma, 1st Additional Sessions Judge, Gopalganj in Criminal Revision No. 388 of 2003 is hereby set aside and the court is directed to notice the parties afresh and hear the Revision Application again and pass fresh orders after considering and dealing with order dated 29.7.2003 passed in Criminal Revision No. 384 of 2002 in accordance with law. The application is accordingly allowed and the learned court below is directed to proceed in accordance with the observations made above.