
(2016) 04 PAT CK 0123

In the Patna High Court

Case No : Criminal Miscellaneous No. 47779 of 2015; (Arising Out of PS.Case No. 396 of 2013 Thana - Kankarbagh District - Patna)

Baldev Singh @ Vikki Singh @ Balle Singh

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 25-04-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Electricity Act, 2003 — Section 135

Citation : (2016) 3 ECrC 57

Hon'ble Judges : Mr. Ashwani Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. Vinay Mistry, Advocate, for the Appellant; Mr. Parmanand Prasad, APP, for the Respondent

Final Decision : Allowed

Judgement

Mr. Ashwani Kumar Singh, J. (Oral) - By way of the present application preferred under Section 482 of the Code of Criminal Procedure (For short "CrPC"), the petitioner seeks quashing of the order dated 15.09.2015 passed by the learned Presiding Officer, Special Court, PESU Area in Special Case No. 1013 of 2013, arising out of Kankarbagh P.S. Case No. 396 of 2013, whereby cognizance has been taken of the offence punishable under Section 135 of the Electricity Act, 2003 as against the petitioner and he has been summoned to face trial.

2. It has been contended by the learned counsel for the petitioner that the impugned order relating to taking cognizance of the offence under Section 135 of the Electricity Act, 2003 and issuing process against the petitioner has been passed by filling up the blanks in the typed format. He has contended that the order has been passed without due application of mind.

3. On the other hand, learned counsel for the South Bihar Power Distribution Company Ltd. has contended that though the impugned order has been passed on printed format by filling gaps, there are sufficient materials against the

petitioner for taking cognizance of the offence punishable under Section 135 of the Electricity Act, 2003. He has contended that an elaborate order is not required to be passed to take cognizance of the offence.

4. I have heard learned counsel for the parties and perused the impugned order dated 15th July, 2015.

5. Without going into the merits of the allegation, this Court is of the considered opinion that the impugned order has been passed without application of mind in a mechanical manner. As rightly pointed out by the learned counsel for the petitioner, I find that the learned Presiding Officer, Special Court, PESU Area, Patna has simply filled up the blanks in the typed format. This does not indicate any application of mind.

6. True, an elaborate order is not required to be passed to take cognizance and issue summons, the order must at least disclose that there has been an application of mind. The manner in which the impugned order has been passed is shocking. The practise of filling up of blanks in readily typed format for passing judicial orders is highly objectionable.

7. The learned Presiding Officer, Special Court, PESU Area, Patna is directed to be cautious in future. He should refrain himself from signing orders on readily typed or printed format without considering the materials on record.

8. For the reasons stated, herein-above, the impugned order dated 15th September, 2015 is quashed. The matter is remitted to the Presiding Officer, Special Court, PESU Area, Patna for passing order afresh after perusing the allegations made in the FIR, the statements of the witnesses recorded under Section 161(3) of the CrPC and the police report submitted under Section 173(2) of the CrPC. Such an order must be passed within one week from the date of receipt/production of a copy of the order.

9. With the aforesaid observation and direction, the application stands allowed.