(1996) 12 PAT CK 0030

In the Patna High Court

Case No : Criminal Miscellaneous No. 1258 of 1989

Bhubaneshwar Prasad Bhaskar APPELLANT

Vs

State of Bihar and Another RESPONDENT

Date of Decision : 17-12-1996

Acts Referred:

Income Tax Act, 1961 — Section 276CC, 277

Citation : (1997) 225 ITR 509

Hon'ble Judges : B.N. Agrawal, J

Bench : Single Bench

Advocate : Suraj Prasad Sinha, for the Appellant; S.K. Saran, for the Respondent

Judgement

B.N. Agrawal, J.—Heard the parties.

2. This application has been filed for quashing the prosecution of the sole petitioner u/s 276CC and 277 of the Income Tax Act, 1961 (hereinafter referred to as "the Act").

3. Learned counsel appearing on behalf of the petitioner stated that prosecution was launched on account of the fact that certain additions were made towards income of the petitioner by the Income Tax Officer while passing the order of assessment. It has been stated that thereafter for the same very additions a penalty proceeding was initiated and the same was dropped on the merits. Learned counsel appearing on behalf of the Income Tax Department says that the penalty proceeding was initiated for the same very additions but it has been dropped on the merits.

4. It is well settled that the burden of proof in criminal prosecution is higher than in any penalty proceeding and since the penalty proceeding has been dropped on the merits, it would be just and expedient not to allow the prosecution of the petitioner to continue.

5. Accordingly, this application is allowed and prosecution of the peti- tioner is

hereby quashed. This petition is thus disposed of.

