
(2012) 04 JH CK 0037

In the Jharkhand High Court

Case No : Criminal Miscellaneous No. 8646 of 2000 (R)

Chhutni Mahto

APPELLANT

Vs

Bhajohari Mahto and Others

RESPONDENT

Date of Decision : 12-04-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 324, 34, 341
Probation of Offenders Act, 1958 — Section 3

Citation : (2012) 04 JH CK 0037

Hon'ble Judges : Harish Chandra Mishra, J

Bench : Single Bench

Advocate : B. P. Jaiswal, for the Appellant; R. C. P. Sah and , Assistant Public Prosecutor For the State, for the Respondent

Final Decision : Dismissed

Judgement

H. C. Mishra, J.—Heard learned counsel for the petitioner, learned counsel for the State and as also learned counsel for the opposite parties. The petitioner has challenged the order dated 16.06.2000 passed by Sri S. K. Mishra, 1st Additional Sessions Judge, Saraikela in Cr. Revision No. 24 of 1998 whereby, the revision filed by the petitioner against the order giving the benefit of Section 3 of the Probation of Offenders Act to the opposite parties has been rejected by the revisional Court below.

2. It appears that the opposite parties were made accused in G. R. Case No. 576 of 1995 wherein they faced the trial for the offence under Sections 341, 323, 324/34 of the Indian Penal Code and were convicted for the offence under Sections 341, 323/34 of the Indian Penal Code by Judgment dated 18.05.1998 passed by the Judicial Magistrate, 1st Class, Saraikela. Upon hearing on the point of sentence, the Trial Court extended the benefit of Section 3 of the Probation of Offenders Act to the convicts and released them after due admonition. The petitioner challenged the said order releasing the accused O.Ps. after due admonition, in the Revisional Court below, which was also dismissed by the

Revisional Court by the impugned order dated 16.06.2000.

3. Learned counsel for the petitioner has submitted that taking into consideration the nature of the offence against the accused opposite parties, the accused opposite parties ought to have been properly and sufficiently sentenced for the offences for which they were convicted. Learned counsel, accordingly, submitted that the impugned order releasing the accused persons after admonition by the Trial Court and its confirmation of the Revisional Court below are absolutely illegal and fit to be set aside and it is a fit case in which the accused persons should be suitably punished by passing appropriate sentence against them.

4. Learned counsel for the opposite parties, on the other hand, submitted that the accused O.Ps. were rightly given the benefit of section 3 of the Probation of Offenders Act, releasing them after due admonition.

Section 3 of the Probation of Offenders Act clearly empowers the Court to release the accused in such cases after due admonition, in case no previous conviction is proved against the accused.

5. Accordingly, I do not find any illegality and/or irregularity in the order passed by the Trial Court below releasing the accused opposite parties giving them benefit of Section 3 of the Probation of Offenders Act. As such, there is no illegality and/or irregularity in the impugned order passed by the Revisional Court below as well, dismissing the revision filed against the said order of the Trial Court. There is no merit in this application and the same is, hereby, dismissed.