

(2011) 12 PAT CK 0043

In the Patna High Court

Case No : Criminal Revision No. 735 of 2002

Dharam Nath Prasad @ Dharam Nath Sah. and Dharamdeo Sah

APPELLANT

Vs

The State of Bihar and Basmati Devi

RESPONDENT

Date of Decision : 09-12-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 420, 467, 468

Citation : (2011) 12 PAT CK 0043

Hon'ble Judges : Amaresh Kumar Lal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Amaresh Kumar Lal, J.—Cr. Rev. No. 735/2002 and Cr. Rev. No. 31/2003 arise out of order dated 9.02.1998 passed by the learned Sessions Judge, Siwan in Cr. Appeal No. 48/1997 by which the appeal has been dismissed for non-filing of the requisites for issuance of notice to opposite party no. 2. As such, both these revision applications are heard together and are being disposed of by this common order.

2. Heard the learned counsel for the petitioners and the learned counsel for the opposite party no. 2 and also learned counsel for the State.

3. It appears that the petitioners filed Cr. Appeal No. 48/1997 against the judgment and order dated 26.05.1997 passed by the learned Judicial Magistrate, Ist class in Trial No. 112/1997 (complaint case no. 622/1991) by which they were convicted and sentenced to R.I. for three years u/s 467, two years each under Sections 468 and 420 of the I.P.C. The appeal was filed on 20.06.1997. On 25.06.1997, the Criminal Appeal was admitted and records of the trial court was called for and the petitioners were directed to filed requisites for issuance of notice to opposite party no. 2 and the case was adjourned to 30.07.1997. Thereafter, several adjournments were granted to the petitioners for filing the requisites for the issuance of notice on opposite party no. 2. Even the order-

sheet was also shown to the learned counsel for the petitioners, but even thereafter, the requisites for issuance of notice was not filed and finding no way out, the criminal appeal Ino. 48/1997 was dismissed on 9.02.1998 vide the impugned order.

4. It appears that the petitioners have been very negligent in prosecuting the appeal. More than sufficient time has been given for the filing of the requisites for issuance of notice to opposite party no. 2, but the order has not been complied with. However, considering the facts and circumstances and in the interest of justice, the impugned order is set aside at a cost of Rs. 1000/each to be paid by the petitioners meaning thereby the criminal appeal will be restored to its original file after the receipt of the deposit of Rs. 3000/- by the petitioners in the Nazarat, Civil Court, Siwan and filing receipt in the court of learned Sessions Judge, Siwan within a period of one month from the date of order. The amount of cost will be payable to the complainant-opposite party no. 2.

5. In the result, both these revision applications are allowed.