
(2002) 02 PAT CK 0048
In the Patna High Court
Case No : Cr.A. No. 12 of 1991

Employees" State Insurance Corporation APPELLANT
Vs
Brajendra Nath Sinha RESPONDENT

Date of Decision : 20-02-2002

Acts Referred:

Employees State Insurance (General) Regulations, 1950 — Regulation 26
Employees State Insurance Act, 1948 — Section 39, 40, 42, 43

Citation : (2002) 94 FLR 807 : (2003) 1 LLJ 223 : (2003) 1 PLJR 263

Hon'ble Judges : B.N.P. Singh, J

Bench : Single Bench

Advocate : Arun Srivastava, for the Appellant; R.S. Roy and Rajendra Prasad, for the Respondent

Final Decision : Dismissed

Judgement

B.N.P. Singh, J.—The respondent, who happens to be the proprietor of J.P.S. Plastic, A 8 Phase II, Industrial Area, Adityapur, Jamshedpur, was prosecuted on behest of the Regional Director, Employees" State Insurance Corporation. Patna, on accusation that the respondent had not been submitting contribution card, duly affixed with stamps for the contributing period ending on September 27, 1980 in Set B, within the time limit, which was due on November 8, 1980, as required under Sections 39, 40 and 43 of the Employees" State Insurance Act, 1948, read with regulation 26 of the E.S.I. (General) Regulations, 1950. After requisite sanction was obtained, the trial commenced against the respondent.

2. In the eventual trial, the prosecution examined three witnesses and also placed on record documents. The defence too adduced one witness and placed on record a register of the year commencing from 1977-1986 which bears inspection note that the establishment of the respondent was not covered under this Act. The trial Court, on appreciation of evidences placed on record, came to the conclusion that the accusation attributed to the respondents was not in conformity with the show-cause notice and accordingly placing reliance on the

inspection note of the Inspector, acquitted the respondent.

3. The aggrieved appellant has invoked the jurisdiction of this Court and the respondent also appeared on issuance of notice to him. It is brought to my notice by the learned counsel for the parties that the records bear the testimony to the fact that the Lower Court records have not been received, the same having been destroyed under the rules. Learned counsel for the appellant, however, made a faint submission that since the matter relates to the jurisdiction of Jharkhand State, the records of the proceeding had to be transmitted to the High Court of Jharkhand. However, submission of the learned counsel for the appellant was not tenable for the reason that the Regional headquarters of Bihar Region at the relevant time was located at Patna and the prosecution too was launched by the Regional Director, Employees' State Insurance Corporation, Patna, by filing a petition of complaint in the Court of Chief Judicial Magistrate, Patna. Since the Lower Court records are not available, I have perused the findings recorded by the trial Court and feel that the view taken by the learned Magistrate cannot be said to be perverse or contrary to the weight of mass of evidence placed on record. This fact also cannot be lost sight that the prosecution was launched against the respondent in the year 1981 and by efflux of good deal of time, it has become a stale matter and for these reasons, this appeal is dismissed.