courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 17/09/2026

(1986) 01 PAT CK 0034

In the Patna High Court

Case No : Criminal Miscellaneous No. 586 of 1980 (R)

M/s. Industrial Gases Bihar Ltd. and 6 Others — APPELLANT

Vs

State of Bihar — RESPONDENT

Date of Decision : 09-01-1986

Acts Referred:
Criminal Procedure Code, 1973 (CrPC) — Section 385, 385(1)(ii)
Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 14, 14(1A), 14(2A), 14(A)(1), 14AA

Citation : (1986) PLJR 255

Hon'ble Judges : A. P. Sinha, J

Bench : Single Bench

Advocate : A.R. K. Singh, V.S. Pd. and Md. Aslam, for the Appellant; Debi Prasad, for the Respondent

Final Decision : Dismissed

Judgement

Anand Prasad Sinha, J.—This application is directed against the order dated 1-5-1978 passed by the learned Chief Judicial Magistrate, Ranchi, in C (III) P. F. Case No. 438/78/Tr. No. 1408 of 1978 by which the learned Magistrate has taken cognizance against the petitioners for an offence punishable u/s 14 of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 for having committed an offence under para 76 of the Employees Provident Fund Scheme read with section 14 (1-A), 14 (2-A) and 14(A) (1) and 14AA of the Employees Provident Fund and Miscellaneous Provisions Act, 1952. It appears that the prosecution has been initiated on the basis of a complaint in which Shri J. Pandey has been described to be the complainant who happened to be the Provident Fund Inspector, Bihar, Ranchi.

2. Against the order taking cognizance this application has been filed by the petitioners but it appears that the complainant has not been made party and only the State of Bihar has been made a party which does not appear to be a fair conduct on the part of the petitioners. It may be appreciated that in certain

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/ms-industrial-gases-bihar-ltd-and-6-...

circumstance, the complainant has to be made a party and that has been construed to be in accordance with the principles of natural justice. It may be relevant here to state that section 385 of the Code of Criminal Procedure has been enacted making mandatory to give notice to the complainant as provided u/s 385 (1) (ii) of the Code of Criminal Procedure. Of course, this provision relates to an appeal but, as state above, the complainant is a necessary and a must party even in a quashing application. This application has been filed about six years back and case has (sic)linge ed for such a considerable period and at this stage, in my opinion, it will not be fair to give an opportunity to the petitioners for making the complainant a party and for the laches, which appear to be deliberate on the part of the petitioners. In this view of the matter, this application is not maintainable. It is accordingly dismissed. However, if so advised, fresh application may be filed in accordance with law.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/ms-industrial-gases-bihar-ltd-and-6-…