
(1986) 01 PAT CK 0032

In the Patna High Court

Case No : Criminal Miscellaneous No. 1231 of 1984 (R)

N. Sarkar and another

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 31-01-1986

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 305
Payment of Wages Act, 1936 — Section 2(I)(a)

Citation : (1987) PLJR 364

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

Bench : Single Bench

Advocate : S. B. Sinha, for the Appellant; Devi Prasad (S. C.), for the Respondent

Final Decision : Allowed

Judgement

A.P. Sinha, J.—Heard Mr. S. B. Sinha, Learned Counsel for the petitioners and Mr. Devi Prasad, learned Sr. Standing Counsel for the Central Government, appearing on behalf of the opposite party. This application is directed against the impugned order dated 27.4.1981 passed in P.W. Case No. 15 of 1981 by which the learned Magistrate has taken cognizance against the petitioners for an offence under Rule 22 of the Payment of Wages (Mines) Rules, 1956.

2. Petitioner no. 1, N. Sarkar has been indicted as the representative of the firm which is not permissible in view of the provisions laid down u/s 305 of the Code of Criminal Procedure as the option lies with the firm itself to nominate its representatives. It appears that petitioner no. 2, G. S. Garcha is an Area Colliery Manager and that being so, he cannot be said to be employer under provisions of section 2 (I) (a) of Payment of Wages Act, as the Company is the only employer. Therefore, the impugned orders of cognizance as against these two petitioners are set aside and this application is allowed.