
(2002) 12 JH CK 0003
In the Jharkhand High Court
Case No : Criminal MP No. 620 of 2002

Parsuram Saha

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 13-12-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 144, 145

Citation : (2003) 2 JCR 199

Hon'ble Judges : Hari Shankar Prasad, J

Bench : Single Bench

Advocate : J.P. Jha, D.D. Saha and S.P. Jha, for the Appellant; APP and Rajiv Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Hari Shankar Prasad, J.—Heard learned, counsel for the parties.

2. This is an application u/s 482 of the Code of Criminal Procedure for quashing the order dated 16.4.2002 passed by the learned Sessions Judge,

Pakur in Cr. Revision No. 73 of 2000/25/2001.

3. The case of the parties in brief is that the first party-petitioner filed an application before the Sub-Divisional Magistrate, Pakur, being Cr. Misc.

No. 178/2000 requesting therein to initiate a proceeding u/s 144, Cr PC with regard to lands in dispute and a proceeding u/s 144, Cr PC was

initiated and later on the proceeding was converted into a proceeding u/s 145, Cr PC. The second party-opposite party went in revision against

the order of conversion from a proceeding under Sections 144 to 145, Cr PC and learned Sessions Judge, in revision, allowed the revision and set

aside the order of conversion of the proceeding from Sections 144 to 145, Cr PC and against that order the petitioner-first party has filed this

application.

4. Learned counsel appearing for the first party-petitioner, referred to show-cause of the second party-opposite party filed in the learned Court

below wherein second party-opposite parties have claimed that the property is not joint and, therefore, the learned Sessions Judge has given a

wrong finding that land being in joint possession of the parties, no proceeding u/s 145, Cr PC will lie. Learned counsel further raised a point that

conversion of the proceeding from Sections 144 to 145, Cr PC is an interlocutory order and no revision will lie based on the order, which is

interlocutory in nature.

5. On the other hand, learned counsel appearing for the opposite parties-second party, referred to the application of the first party-petitioner

wherein first party-petitioner has claimed that land is in joint possession of the parties and, therefore, no proceeding u/s 145, Cr PC will lie because

land is in joint possession and there is no question of any decision on the point of possession. The learned counsel further submitted that the order

is not an interlocutory one and in this connection he had placed reliance on Indrapuri Primary Co-operative Housing Society Ltd. and Another Vs.

Sri. Bhabani Gogoi, wherein it has been held that order Section 145(1) is not an interlocutory.

6. The first party-petitioner, in his application, claimed that the land in dispute, which is comprised as 2 Bigha, 2 Khatha and 6 Durs is in joint

possession of the parties and on the basis of this application the proceeding u/s 144, Cr PC was drawn up, which was later on converted into a

proceeding u/s 145, Cr PC, but when there was an assertion on behalf of the petitioner-first party that the land in dispute is in joint possession of

the parties, there was no basis for the learned Sub-Divisional Magistrate for initiation of a proceeding and the learned Session Judge has rightly set

aside the order of conversion and allowed the revision.

7. In the result, I find no merit in this application, which is accordingly dismissed.