
(2019) 09 PAT CK 0045
In the Patna High Court
Case No : Criminal Revision No. 311 Of 2015

Ram Sewak Yadav

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 06-09-2019

Acts Referred:

Indian Penal Code, 1860 — Section 323, 379, 448
Code Of Criminal Procedure, 1973 — Section 204

Citation : (2019) 09 PAT CK 0045

Hon'ble Judges : Rajendra Kumar Mishra, J

Bench : Single Bench

Advocate : Ajay Kumar, J.N. Thakur, Manish Jha

Final Decision : Allowed

Judgement

1. Heard the parties.

2. This Criminal Revision is directed against the order dated 17.01.2015 passed in Criminal Revision No.273 of 2014, whereby and whereunder the learned Adhoc Additional Sessions Judge-IV, Darbhanga, allowed the aforesaid Criminal Revision No.273 of 2014 filed by the petitioners/opposite party nos.2 to 9 against the order dated 11.03.2014 passed in Complaint Case No.759 of 2013/ Trial No.4105 of 2014 by the court of Sri A. Kunal, Judicial Magistrate, First Class, Darbhanga, summoning the petitioners/opposite party nos. 2 to 9, finding prima facie case against them for the offence under Sections 323, 448 and 379 of the Indian Penal Code, on inquiry under Section 204 of the Code of Criminal Procedure.

3. Learned counsel for the petitioner submits that while learned counsel for the complainant/opposite 2nd party/petitioner was present on the date of the argument and had argued the case and, thereafter, the impugned order was passed but the learned Adhoc Additional Sessions Judge-IV, Darbhanga, did not discuss his argument in the impugned order and also detailed in the impugned order about his non-appearance.

4. On the other hand, learned counsel for the petitioners/opposite party nos.2 to 9 submits that before passing of the impugned order, learned Adhoc Additional Sessions Judge-IV, Darbhanga, had also heard the learned counsel for the complainant/opposite second party/petitioner.

5. The cause title of the impugned order goes to show about non-appearance of the learned counsel for complainant/ opposite second party/petitioner, while the record of the trial court goes to show that the complainant/opposite 2nd party/petitioner was present on the date of argument of the case and he was also heard and, thereafter, the impugned order was passed. The impugned order also goes to show that the argument, as advanced on behalf of the complainant/ opposite 2nd party/petitioner, is not detailed therein and, as such, without going into the merit of the case, the impugned order dated 17.01.2015 passed by the learned Adhoc Additional Sessions Judge-IV, Darbhanga, in Criminal Revision No.273 of 2014 is set aside and the matter is remitted back to the court concerned for passing afresh/appropriate order, after hearing the parties, in accordance with law.

6. Accordingly, this Criminal Revision is allowed.