

(1974) 06 GAU CK 0001
In the Gauhati High Court

S. Tunabi Sharma Sharma and Others	Vs	APPELLANT
H. Amuba Singh and Others		RESPONDENT

Date of Decision : 19-06-1974

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 145

Citation : (1975) CriLJ 172

Hon'ble Judges : Baharul Islam, J

Bench : Single Bench

Judgement

Baharul Islam, J.—This reference has been made by the learned Sessions Judge, Manipur and is directed against the judgment and order passed by the Magistrate First Class, I. W in Criminal Misc. Case No. 38 of 1972-MIC/I.W. u/s 145 of the Code of Criminal Procedure. The reference has been made on two grounds, one of which is that the learned Magistrate has omitted to consider some of the documents and affidavits filed by the second party.

2. Shri R. K. Manisana Singh, learned counsel appearing in support of the reference, points out that the second party filed as many as 10 documents and 5 affidavits including one by one K. Yaimabi Singh and another by one Tomba Singh. The affidavit filed by K. Yaimabi Singh had been referred to by the learned Magistrate. Although the learned Magistrate has not specifically referred to documents 1 to 6, mentioned in the list of documents filed by the second party, he has vaguely referred to some of them. But, he has totally omitted from consideration the documents 7 to 9 mentioned in the said list of documents. These omitted documents are Das Chithas of the land in dispute.

3. Under Sub-section (4) of Section 145 of the Code of Criminal Procedure, it is the duty of the Magistrate to consider and assess the value of the written statements, affidavits and documents filed by the parties. An omission from consideration of material documents vitiates the order. In the instant case, the omission from consideration by the learned Magistrate the important documents and affidavits referred to above has vitiated his judgment.

4. In the result, the impugned order of the learned Magistrate is quashed. The reference is accepted. The learned Magistrate is directed to dispose of the matter in accordance with law after hearing the parties.