
(1975) 06 GAU CK 0003
In the Gauhati High Court

Sankha Sahu and Others

APPELLANT

Vs

Bura Takbi and Others

RESPONDENT

Date of Decision : 02-06-1975

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 145, 439

Citation : (1976) CriLJ 1447

Hon'ble Judges : M.C. Pathak, C.J

Bench : Single Bench

Judgement

M.C. Pathak, C.J.—This petition has been filed u/s 439 of the Code of Criminal Procedure, 1898.

2. The petitioners as the first party filed an application u/s 145 of the Code of Criminal Procedure in the Court of the Magistrate, First Class, Diphu. The learned Magistrate disposed of the case by his order dated 27-7-1972 declaring possession in favour of the first party Sankha Sahu and others and forbade any disturbances to their possession by the second party. Against the order of the learned Magistrate, an appeal was taken before the Additional Deputy Commissioner, Mikir Hills, by the second party under Rule 20 of the Rules for the Administration of Justice and Police in the Sibsagar and Nowgong Mikir Hills Tracts, which rules apply to the area in question. The learned Additional Deputy Commissioner by this order dated 12-2-1974 set aside the impugned order and remanded the case to the learned Magistrate for disposal of the matter in accordance with law and in the light of the observations made therein. Against this order of the learned Additional Deputy Commissioner, the present petition has been filed,

3. The learned Counsel for the opposite parties has raised a preliminary objection to the maintainability of this petition u/s 439 of the Code of Criminal Procedure.

4. It is common case that the Code of Criminal Procedure does not in terms apply to Mikir Hills from which area this case comes.

5. A similar matter came up for consideration in this Court regarding Rule 22 of the Rules for Administration of Justice and Police in the Garo Hills District Rongseng Sangma Vs. The State of Assam, which is similar to Rule 15 of the Rules for Administration of Justice in the North Cachar Hills Sub-Division and Rule 16 of the Rules for the Administration of Justice and Police in the Sibsagar and Nowgong Mikir Hills Tracts. The same matter Was again considered by a Division Bench of this Court in the case of Rangland G. B. v. Debardao Langthasa reported in 1973 G LR 324, regarding Rule 15 of the Rules for Administration of Justice in the North Cachar Hills Sub-Division. In the case considered in 1973 ALR 324 (supra) it has been held that Rule 15 of the North Cachar Hills Rules and Rule 22 of the Rules for the Administration of Justice and Police in the Garo Hills District do not enable the High Court to call for the proceedings under those Rules in a case of the nature of a proceeding u/s 145, Criminal Procedure Code and that being the position, Section 439 of the Code of Criminal Procedure, 1898 is out of the way. Rule 16 of the Rules for the Administration of Justice and Police in the Sibsagar and Nowgong Mikir Hills Tracts being similar to Rule 22 of the Garo Hills District Rules and Rule 15 of the North Cachar Hills Rule, the present petition u/s 439 of the Code of Criminal Procedure, 1898 is not maintainable. The preliminary objection is upheld.

6. The petition is accordingly dismissed. The stay order stands vacated.