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**(1999) 10 PAT CK 0077**

**In the Patna High Court**

**Case No :** Criminal Miscellaneous No. 2403 of 1999 (R)

Shantunu Das and Others

APPELLANT

Vs

State of Bihar and Another

RESPONDENT

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**Date of Decision :** 14-10-1999

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 205, 251, 317, 482  
Penal Code, 1860 (IPC) — Section 500

**Citation :** (2000) 3 PLJR 134

**Hon'ble Judges :** M.Y. Eqbal, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

M.Y. Eqbal, J.—In this application filed u/s 482 Code of Criminal Procedure. Petitioners have prayed for quashing the order dated 4.5.98 passed by Judicial Magistrate, Ranchi in C. No. 326/91 whereby application filed u/s 205 Code of Criminal Procedure has been rejected.

2. It appears that Petitioners have been prosecuted and ordered to face trial u/s 500 I.P.C. After institution of the criminal case Petitioners surrendered before the court below and were granted bail, since offence alleged is bailable. It appears that since then Petitioners were all along represented by their lawyers under the provisions of Section 317 Code of Criminal Procedure. The court below by order dated 31.5.97 directed the Petitioners to remain physically present in the court on 16.6.97 as the case was pending for explaining substance of accusation to the accused persons. Instead of appearing in the court Petitioners filed a petition on 24.1.98 u/s 205 Code of Criminal Procedure for their exemption from appearance even for the purpose of explaining substance of accusation. The said application was rejected by the court below holding that their presence is necessary for explaining substance of accusation.

3. I have heard Mr. M.K. Laik learned Counsel for the Petitioner and Mr. Choudhary learned Counsel for O.P. No. 2. From perusal of the impugned order it

is evident that all through the Petitioners were represented through their counsel. However, the court below passed the impugned order for their personal appearance taking the view that their personal appearance is necessary for the purpose of explaining substance of accusation. In my opinion the court below has not correctly appreciated the law on this point. The law has been well settled on this point. Once an accused person On application permitted by the court to be represented through a lawyer, then the lawyer is competent to answer to the accusation on behalf of the accused u/s 251 of the Code of Criminal Procedure. In this regard reference may be made to Division Bench of this Court in the case of Srinivash Vajpai v. State of Bihar 1976 BUR 248 : 1976 PUR 521. Similarly in the case of S.C. Jain v. State of Bihar 1984 PUR 16 a Bench of this Court following the earlier Bench decision in the case of Ravi Singh and Anr. v. State of Bihar 1979 BBCJ 437 has held that benefit of Section 205 Code of Criminal Procedure should be liberally extended particularly in all trivial and technical cases. Their lordships further held that Section 251 Code of Criminal Procedure merely requires answer to the accusation as to whether accused pleaded guilty or claimed to be tried on the charges and this part can be complied with even by a pleader on behalf of the accused.

4. In that view of the matter impugned order passed by the court below directing for personal appearance for the purpose of explaining the substance of accusation cannot be sustained in law. For the reasons aforesaid this application is allowed and the impugned order passed by the court below is set aside. It is held that the lawyer representing the Petitioners Will be competent to answer the accusation as required u/s 251 Code of Criminal Procedure.