
(2006) 01 OHC CK 0038
In the Orissa High Court
Case No : CRLMA No. 10 of 2002

Smt. Basantirani Nayak

APPELLANT

Vs

Biranchi Narayan Prasad Nayak and Others

RESPONDENT

Date of Decision : 31-01-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438, 439(2)

Citation : (2006) 1 OLR 372

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Judgement

A.S. Naidu, J.—Heard.

2. This petition has been filed u/s 439(2) of the Cr.P.C., inter alia, submitting that certain vital facts were not brought to the notice of this Court while the petition for bail was moved. According to Mr. Pradhan, learned Counsel for the petitioner, Crl. Misc. Case No. 5650 of 2002 was filed by the opposite parties u/s 438 of the Cr.P.C. suppressing the fact that two other similar petitions being Crl. Misc. Case Nos. 8092/2001 and 6433/2001 were filed and were dismissed by this Court. Mr. Pradhan, forcefully submits that as this fact was not brought to the notice of this Court, by order dated 19.7.2002 the accused persons were directed to be released on bail if they surrender before the Court below. It is prayed to cancel the bail order. In support of his submission, the decision in the case of Vijay Singh v. State of Rajasthan reported in 1990 (2) CRIMES 52 was relied upon.

3. Learned Counsel for the opposite parties, at the other hand, submits that out of the earlier two Crl. Misc. Cases, one was permitted to be withdrawn and in the other this Court directed the opposite parties to surrender before the Court below and move for bail. But then this facts could not be brought to the notice of the Court inadvertently, as the counsel was not well and was sick at the relevant time. He also humbly submits that such mistake shall not be committed in future. Considering the said submissions made, this Court directs cancellation of the order admitting the opposite parties on bail vide order dated 19.7.2002 and

direct the learned J.M.F.C., Banpur to take appropriate steps in G.R. Case No. 126/2001.