
(1991) 01 OHC CK 0002
In the Orissa High Court
Case No : Criminal Revision No. 569 of 1986

Sukanti Jena

APPELLANT

Vs

Bijaya Kumar Champati and Another

RESPONDENT

Date of Decision : 25-01-1991

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 144, 145

Citation : (1991) 1 OLR 228

Hon'ble Judges : J.M. Mahapatra, J

Bench : Single Bench

Advocate : B.L.N. Swamy, for the Appellant; Bidhayak Patnaik, for the Respondent

Final Decision : Allowed

Judgement

L.M. Mahapatra, J.—The revision is directed against the order dated 2-9-1986 of the learned Executive Magistrate, Bhubaneswar allowing to implead a third party by name Krushna Chandra Champati in the proceeding u/s 145, Cr. P.C. pending before him.

2. Facts of the case need not be gone into and learned counsel on both sides agree that the sole question for decision in the case is whether in a proceeding u/s 145, Cr. P. C. a third party can be impleaded even though he is able to show that he has some interest in the property involved in the dispute. Learned counsel for the petitioner relying on a Bench decision of this Court in the case of Raghunath Rout v. Kalia Gouda and others ILR 1976 Cut. 598 has urged that such impleadment is not permissible in a proceeding u/s 144 or 145, Cr P.C. which is confirmed only to two parties, between whom there is dispute with regard to possession. On a perusal of the aforesaid leading decision in the matter, I find that it supports the contention of the petitioner. The learned counsel for the opposite parties has failed to place any authority in support of his contention that a third party can be impleaded in a proceeding u/s 145, Cr. P. C. .

3. On the aforesaid analysis. I would accept the contention of the petitioner and hold that the impugned order is not sustainable in eye of law. The result therefore is that revision is allowed and the order impleading a third party in the case is quashed.. The case be remitted back to the Court below to proceed in accordance with law. As the case has become fairly did, the learned Court below is directed for expeditious disposal of the case, preferably within three months from the date of receipt of the record.