
(2000) 01 PAT CK 0091

In the Patna High Court

Case No : Criminal Miscellaneous No. 4178 of 1996

Surendra Prasad Singh and Others

APPELLANT

Vs

State of Bihar and Another

RESPONDENT

Date of Decision : 14-01-2000

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 14AA

Citation : (2000) 48 BLJR 1119 : (2000) 86 FLR 258 : (2000) 2 LLJ 1210 :
(2000) 4 PLJR 198

Hon'ble Judges : B.N. Singh "Neelam", J

Bench : Single Bench

Advocate : S.K. Mishra, for the Appellant; Damodar Prasad Tiwary, for the Respondent

Final Decision : Allowed

Judgement

B.N. Singh "Neelam", J.—Heard Mr. S.K. Mishra, learned counsel for the petitioners preferring this petition u/s 482, Cr. P.C. for quashing the whole proceeding of Trial No. 60 of 1996 so pending in the Court of Judicial Magistrate, 1st Class in which vide order dated October 28, 1980, the cognizance of offence is so taken against the present petitioners u/s 14AA of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the "Act") against the accused persons figuring here as petitioners.

2. The complainant of this case is Inspector, Provident Fund, Muzaffarpur and the written report so given by him, a photo copy of which is filed, marked as Annexure-2, reveals with regard to the failure on the part of the present petitioners as to pay the deposit linked insurance contributions for the month of July 1979 to September 1979. The cognizance was so taken on October 28, 1980, a copy of which is filed and marked as Annexure-3. It has been submitted on behalf of the petitioners that even the ingredients of Section 14AA of the Act is not met with further by certificate case, the amount as alleged not been paid under the deposit made in the insurance contribution scheme has been realised

and in support of his contention, a reference is made to Annexure-5. It has also been submitted that for the cognizance of the offence so taken on October 28, 1980, the matter was lingering till 1996 when this petition was so filed u/s 482, Cr. P.C. and in between a long 16 years even the charge-sheet was not filed and the trial has not commenced and the matter was so proceeding with snail's pace. That being the position by also claiming himself to be fortified by a reported case Jain Engineering Company Vs. Collector of Customs, Bombay, , by particularly referring to its paragraph 2 (e) at page 125, it is pointed out that it is a fit case in which the whole proceeding be thus, quashed. It has also been submitted that under the provisions of Section 14AA of the Act, the punishment was for one year only. Paragraph 2 (e) of the reported case so cited runs as under:

"(e)Where the case pending in Criminal Courts under I.P.C. or any other law for the time being in force are punishable with imprisonment up to one year with or without fine, and if such pendency is for more than one year and if in such cases trials have still not commenced, the Criminal Court shall discharge or acquit the accused, as the case may be, and close such cases."

In all fairness, it has been brought to notice that after the amendment of Section 14AA of the Act, the punishment is enhanced to five years but in the present case since the ingredients of Section 14AA is not met with, that being the position, leaving aside the other points, the proceeding is fit to be quashed.

3. None appears on behalf of OP. No. 2 though there was due service and the name of the lawyer for O.P. No. 2 has also been shown in the case list. Mr. D.P. Tiwary, learned Additional Public Prosecutor appearing on behalf of the State has submitted that there happened to be an allegation of mis-appropriation of amount and, thus, prima facie, material was before the Court below to take cognizance after filing the complaint was so taken and if they are innocent, the petitioners can very well be getting the chance to make such prayer having no material before the trial in course of trial.

4. Be that as it may, under the circumstances discussed above, instead of giving direction to the learned Court below in the background of the reported case so cited and also on the ground that the ingredients of Section 14AA of the Act are not met with, I find that as to meet the ends of justice, the present proceeding be quashed. Taking that view, the proceeding against the petitioner u/s 14AA of the Act in Trial No. 60 of 1996 so pending before the Judicial Magistrate, 1st Class, Muzaffarpur in which cognizance has been taken long back on October 28, 1980 stands quashed. The petition is allowed. The matter stands, accordingly, disposed of.